

# Application for Transfer of Registration

An application must be taken (not mailed) to a motor registry within 14 days of purchasing a vehicle or a late application fee of at least \$88 will be charged.

Check the last page of this form for a guide to applying to transfer registration.

To register a vehicle in your name you must be at least 16 years of age for a light vehicle (i.e. 4.5 tonnes GVM or less) and at least 18 years of age for a heavy vehicle (i.e. more than 4.5 tonnes GVM).

Registration plate number

BCF 75C

Vehicle to be registered in the name of:

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1 Registration plate number  
BCF 75C

2 Is the vehicle to be registered in the name of:  
a person(s) ☒ now go to 4  
an organisation or business ☐ now go to 5  
a licensed motor dealer ☐

3 Dealer's details  
Name of dealership  
K. F. Goodman Pty Ltd  
Dealer's licence number  
17213  
State or Territory  
NSW  
Date vehicle purchased  
day / month / year  
Dealers now go to 9

4 If you send someone else to transfer the registration into your name or the registration is to be transferred into joint names, you must also fill in the Representative's Authority on page 3 of this form. However, if you are not already recorded on the Roads and Traffic Authority's computer system, you must attend the registry in person and provide Proof of Identity.

Vehicles greater than 4.5 tonnes GVM can only be registered in one name. If the vehicle is 4.5 tonnes GVM or less it may be registered in two names but details must be given for each person.

NSW Driver's licence/Customer number  
[redacted]  
Surname  
Roosendaal  
Given names  
Aminda. Sara

NSW Driver's licence/Customer number  
[redacted]  
Surname  
[redacted]  
Given names  
[redacted]

Where vehicles are registered in joint names, renewal notices will be sent to the address of the registered operator listed in the adjacent column.

2.

\$1,046.00

NSW Driver's licence/Customer number

[redacted]

Surname

Roosendaal

Given names

Aminda. Sara

Legal and renewal notices will be sent to the residential address below unless an alternative mailing address is nominated. You must notify the RTA of your new residential and mailing address within 14 days of moving.

Residential Address

[redacted]

[redacted]

State

Mailing Address

[redacted]

State

Date of birth

day / month / year

Sex male ☐ female ☒

If vehicle is to be leased or managed go to 7  
If not go to 9

Catalogue No. 45070107 RTA Form No. 1010 (03/2207) RTA ABN 64 460 165 265

ICAC

INDEPENDENT COMMISSION  
AGAINST CORRUPTION

NEW SOUTH WALES

## INVESTIGATION INTO THE CONDUCT OF MOSES OBEID, ERIC ROOZENDAAL AND OTHERS

ICAC REPORT  
JULY 2013



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INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

**INVESTIGATION INTO THE  
CONDUCT OF MOSES OBEID,  
ERIC ROOZENDAAL  
AND OTHERS**

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**ICAC REPORT  
JULY 2013**

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# Application for Transf

to be taken (*not mailed*) to a motor

application for

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This publication is available on the Commission's website [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) and is available in other formats for the vision-impaired upon request. Please advise of format needed, for example large print or as an ASCII file.

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INDEPENDENT COMMISSION  
AGAINST CORRUPTION

NEW SOUTH WALES

Level 21, 133 Castlereagh Street  
Sydney, NSW, Australia 2000

Postal Address: GPO Box 500,  
Sydney, NSW, Australia 2001

T: 02 8281 5999

1800 463 909 (toll free for callers outside metropolitan Sydney)

TTY: 02 8281 5773 (for hearing-impaired callers only)

F: 02 9264 5364

E: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)

[www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

Business Hours: 9.00 am - 5.00 pm Monday to Friday



INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

The Hon Don Harwin MLC  
President  
Legislative Council  
Parliament House  
Sydney NSW 2000

The Hon Shelley Hancock MLA  
Speaker  
Legislative Assembly  
Parliament House  
Sydney NSW 2000

In accordance with section 74 of the *Independent Commission Against Corruption Act 1988* I am pleased to present the Commission's report on its investigation into the circumstances in which the Hon Eric Roozendaal MP came to acquire a Honda CRV motor vehicle in June 2007.

I presided at the public inquiry held in aid of this investigation.

The Commission's findings and recommendations are contained in the report.

I draw your attention to the recommendation that the report be made public forthwith pursuant to section 78(2) of the *Independent Commission Against Corruption Act 1988*.

Yours faithfully

A handwritten signature in black ink, appearing to read 'D Ipp', written in a cursive style.

The Hon David Ipp AO QC  
Commissioner

## Contents

<b>Summary of investigation and results</b>	<b>5</b>
Results	5
Recommendation that this report be made public	7
<b>Chapter 1: Background</b>	<b>8</b>
How the investigation came about	8
Why the Commission investigated	8
Conduct of the investigation	9
The public inquiry	9
The people involved	10
<b>Chapter 2: The acquisition and registration of the Honda CR-V</b>	<b>11</b>
Ms Roozendaal needs a car and Moses Obeid becomes involved	11
The Obeid and Triulcio versions	17
Resolution of different versions and findings on this issue	22
Ancillary issue: the Mrs Re signatures	25
<b>Chapter 3: The involvement of Mr Roozendaal</b>	<b>26</b>
Did Moses Obeid provide Mr Roozendaal with a benefit?	28

<b>Chapter 4: The alleged favours</b>	<b>29</b>
Mr Fitzhenry's evidence	29
Mr Roozendaal's position in the NSW Ministry	29
The Obeid business interests	30
Analysis of the evidence	32
Corrupt conduct	33
Section 74A(2) statements	34
<b>Appendix 1: The role of the Commission</b>	<b>36</b>
<b>Appendix 2: Making corrupt conduct findings</b>	<b>37</b>

## Summary of investigation and results

This investigation by the NSW Independent Commission Against Corruption (“the Commission”) concerned allegations that, in June 2007, Moses Obeid corruptly provided the Hon Eric Roozendaal MLC with a gift or benefit being:

- a Honda CR-V motor vehicle, or
- a Honda CR-V motor vehicle at a price reduced by \$10,800 from the market price, or
- a payment of \$10,800 towards the price of a Honda CR-V motor vehicle.

The Commission’s investigation examined whether Mr Roozendaal had exercised or agreed to exercise his public official functions to favour the Hon Edward Obeid MLC (“Edward Obeid Sr”) or members of the Obeid family in return for the gift or benefit. The Commission also examined whether Moses Obeid provided Mr Roozendaal with the gift or benefit as a reward for Mr Roozendaal having shown favour in his public official capacity to Edward Obeid Sr or members of his family, or as an inducement for Mr Roozendaal to exercise his public official functions in the future in a manner favourable to any Obeid business interest.

### Results

Chapter 4 of the report contains a finding that Moses Obeid engaged in corrupt conduct by providing a \$10,800 benefit to Mr Roozendaal as an inducement for Mr Roozendaal to show favour to Obeid business interests in the exercise of his official functions, or the receipt of which would tend to influence Mr Roozendaal to show favour to Obeid business interests in the exercise of his public official functions.

The Commission has found that there is insufficient evidence to support a finding that Mr Roozendaal knew

about all of the various financial transactions that were undertaken to obtain the car in question or the unnecessary transactions undertaken to interpose other persons as prior registered owners of the car.

The report notes that it was difficult for the Commission to uncover the full truth about Mr Roozendaal’s involvement in, and knowledge of, the transactions that led to the purchase of the Honda CR-V on his behalf. This is because Mr Roozendaal allowed Moses Obeid to play a major role in organising the purchase of the car, and dealt almost exclusively with Moses Obeid in respect of the purchase. The question of what Mr Roozendaal knew or was told about the purchase therefore turns to a large degree on what he was told by Moses Obeid. As outlined below, Moses Obeid was not a truthful witness, and his evidence could not be relied upon for any purpose, including deciding what he may or may not have told Mr Roozendaal.

Mr Roozendaal admitted that he obtained an almost new car at a substantial discount through Moses Obeid’s contacts, and that he was allowed to take the car away from Peter Fitzhenry’s premises without having signed any documents or paid any money because Moses Obeid was a friend of Mr Fitzhenry’s and had made such arrangements.

Submissions made by counsel for Mr Roozendaal conceded that his actions in allowing Moses Obeid to arrange for the purchase of the car may have shown a lack of “judgment or insight” on Mr Roozendaal’s part. Mr Roozendaal conceded in evidence that it was, in retrospect, odd or unusual that he had been allowed to collect the car without paying anything or signing any documents.

Despite these concerns, the Commission does not find sufficient evidence to establish corrupt conduct on the part of Mr Roozendaal.

The Commission also does not find sufficient evidence to establish corrupt conduct on the part of Edward Obeid Sr, Paul Obeid, Rocco Triulcio and Rosario (Ross) Triulcio.

Chapter 4 of the report, however, contains statements pursuant to s 74A(2) of the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”) that the Commission is of the opinion that consideration should be given to obtaining the advice of the Director of Public Prosecutions (DPP) with respect to the prosecution of Moses Obeid, Rocco Triulcio, Rosario Triulcio and Paul Obeid for offences pursuant to s 87 of the ICAC Act in relation to giving false evidence at this segment of the public inquiry.

The report contains findings that the evidence given by Moses Obeid, Rocco Triulcio, Rosario Triulcio and Paul Obeid was untrue in several significant respects. In particular, there is documentary evidence in the records of Mr Fitzhenry, Peter Warren Automotive Pty Ltd (“Peter Warren Automotive”) and the Obeids’ and Triulcios’ own business records, which show that:

- it was not originally intended that the Honda CR-V should be purchased for Nata Re, rather, Amanda Roozendaal was the original intended purchaser
- Rocco Triulcio provided a cheque to pay for the Honda CR-V as a loan to the Obeids to facilitate the purchase of the car for Mr Roozendaal or his wife, not because Rocco Triulcio intended to purchase the car for his sister
- Moses Obeid did not arrange to pay \$10,800 towards the cost of the car because Rocco Triulcio had decided not to purchase the car for Mrs Re after a falling out with Mr Fitzhenry

- Moses Obeid did not decide to approach Mr Roozendaal with a proposition that he should take the car only after an arrangement that the car was to be purchased for Mrs Re fell through.

In these circumstances, the Commission considers that the advice of the DPP should be sought with respect to the prosecution of the persons listed below for offences of providing false or misleading evidence to the Commission under s 87 of the ICAC Act on the following bases:

## Moses Obeid

- Moses Obeid for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he gave evidence that the Honda CR-V obtained by Mr Fitzhenry from Peter Warren Automotive was originally intended for Mrs Re.
- Moses Obeid for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he gave evidence that his first conversation with Mr Roozendaal about purchasing the Honda CR-V was on 18 June 2007 when Rocco Triulcio decided that he did not want to acquire the Honda CR-V for Mrs Re.
- Moses Obeid for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he said that he instructed Mr Fitzhenry to locate two cars – one for Rocco Triulcio and one for Mr Roozendaal.
- Moses Obeid for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he denied that he arranged for Rocco Triulcio to provide a cheque to purchase the Honda CR-V that was intended for the Roozendaals.



### Rocco Triulcio

- Rocco Triulcio for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he said that the Honda CR-V obtained by Mr Fitzhenry from Peter Warren Automotive was originally intended for Mrs Re.
- Rocco Triulcio for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he said he gave a cheque in the amount of \$44,800 to Mr Fitzhenry to enable Mr Fitzhenry to purchase a Honda CR-V for Mrs Re.
- Rocco Triulcio for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he said that he became upset when Mr Fitzhenry could not obtain a suitable price for his Mercedes vehicle and consequently instructed Mr Fitzhenry to sell the Honda CR-V he had obtained.

### Rosario (Ross) Triulcio

- Rosario Triulcio for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he gave evidence that the Obeid Corporation Pty Ltd (“the Obeid Corporation”) paid the shortfall of \$10,800 to Challenge Property Investments Pty Ltd (“Challenge Property Investments”) because Rocco Triulcio decided not to acquire the Honda CR-V for Mrs Re and Challenge Property Investments was therefore at risk of losing money.
- Rosario Triulcio for the offence of giving false or misleading evidence at the public inquiry under s

87 of the ICAC Act, when he gave evidence that he recorded all the entries relating to the Honda CR-V in Challenge Property Investments’ books of accounts against the Obeid Corporation loan account because it was “just an easy way to balance it out” and when he denied that the money paid to Mr Fitzhenry by Rocco Triulcio for the Honda CR-V was a loan to the Obeid family.

### Paul Obeid

- Paul Obeid for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he gave evidence that the Obeid Corporation paid the shortfall of \$10,800 owing on the Honda CR-V because Rocco Triulcio decided not to buy the Honda CR-V and Challenge Property Investments was therefore at risk of losing money.
- Paul Obeid for the offence of giving false or misleading evidence at the public inquiry under s 87 of the ICAC Act, when he gave evidence that the \$10,800 payment of 20 June 2007 was recorded in the Obeid Corporation’s financial records as a repayment of a loan because the Obeid Corporation was covering a loss suffered by Challenge Property Investments.

### Recommendation that this report be made public

Pursuant to s 78(2) of the ICAC Act, the Commission recommends that this report be made public forthwith. This recommendation allows either Presiding Officer of the Houses of Parliament to make the report public, whether or not Parliament is in session.



## Chapter 1: Background

This chapter sets out some general information concerning the investigation conducted by the NSW Independent Commission Against Corruption (“the Commission”) and those principally involved.

### How the investigation came about

In August 2011, Peter Fitzhenry, Moses Obeid’s former friend and neighbour, provided the Commission with information concerning the acquisition of a black Honda CR-V Sports vehicle (“the Honda CR-V”). Mr Fitzhenry alleged that, in approximately June 2007, Moses Obeid asked him to facilitate the acquisition of a Honda CR-V for the Hon Eric Roozendaal MLC as a reward for favours that Mr Roozendaal had performed for Moses Obeid’s father, the Hon Edward Obeid MLC (“Edward Obeid Sr”).

The Commission’s investigation ultimately focused on an allegation that, in June 2007, Moses Obeid provided Mr Roozendaal with a gift or benefit being:

- a Honda CR-V motor vehicle, or
- a Honda CR-V motor vehicle at a price reduced by \$10,800 from the market price, or
- a payment of \$10,800 towards the price of a Honda CR-V.

The Commission’s investigation examined whether Mr Roozendaal had exercised or agreed to exercise his public official functions to favour Edward Obeid Sr or members of the Obeid family in return for the gift or benefit. The Commission also examined whether Moses Obeid provided Mr Roozendaal with the gift or benefit as a reward for Mr Roozendaal having shown favour in his public official capacity to Edward Obeid Sr or members of his family, or as an inducement for Mr Roozendaal to exercise his public official functions in the future in a manner favourable to any Obeid business interest.

### Why the Commission investigated

One of the Commission’s principal functions, as specified in s 13(1)(a) of the *Independent Commission Against Corruption Act 1988* (“the ICAC Act”), is to investigate any allegation or complaint that, or any circumstances which in the Commission’s opinion imply that:

- corrupt conduct, or*
- conduct liable to allow, encourage or cause the occurrence of corrupt conduct, or*
- conduct connected with corrupt conduct,*  
*may have occurred, may be occurring or may be about to occur.*

The role of the Commission is explained in more detail in Appendix 1. Appendix 2 sets out the approach taken by the Commission in determining whether corrupt conduct has occurred.

The allegation in this matter was serious and could constitute corrupt conduct within the meaning of the ICAC Act.

If Mr Roozendaal accepted a benefit as a reward for exercising his official functions in favour of Edward Obeid Sr or members of his family, or as an inducement for Mr Roozendaal to show favour in carrying out his official functions to Edward Obeid Sr or members of his family, Mr Roozendaal’s conduct could amount to corrupt conduct, as it could involve conduct that could adversely affect, either directly or indirectly, the honest or impartial exercise of Mr Roozendaal’s official functions under s 8(1)(a) of the ICAC Act. For the purpose of s 9 of the ICAC Act, his conduct could fall within s 9(1)(a), on the basis that it could constitute or involve a criminal offence, namely the common law offence of misconduct in public office and an offence of corruptly receiving a benefit under s 249B(1) of the *Crimes Act 1900* (“the Crimes Act”).

If Moses Obeid provided Mr Roozendaal with a benefit as a reward for Mr Roozendaal exercising his official functions in favour of Edward Obeid Sr or members of his family, or as an inducement for Mr Roozendaal to show favour in carrying out his official functions to Edward Obeid Sr or members of his family, Moses Obeid's conduct could amount to corrupt conduct, as it could involve conduct that could adversely affect, either directly or indirectly, the exercise of Mr Roozendaal's official functions under s 8(2) of the ICAC Act, and could involve bribery or the offer of secret commissions within s 8(2)(b) or s (8)(2)(d) of the ICAC Act. For the purposes of s 9(1)(a) of the ICAC Act, such conduct could also involve a criminal offence of corruptly giving a benefit under s 249B(2) of the Crimes Act.

If it were to be established that Edward Obeid Sr was a party to the provision of a benefit to Mr Roozendaal as an inducement for Mr Roozendaal to exercise official functions in a manner favourable to Edward Obeid Sr or his family interests, or as a reward for Mr Roozendaal exercising his official functions in a manner favourable to Edward Obeid Sr or his family interests, such conduct could amount to corrupt conduct, as it would involve conduct that could adversely affect, either directly or indirectly, the exercise of Mr Roozendaal's official functions under s 8(2) of the ICAC Act, and could involve bribery or the offer of secret commissions within s 8(2)(b) or s (8)(2)(d) of the ICAC Act. For the purposes of s 9(1)(a) of the ICAC Act, such conduct could also involve a criminal offence of aiding and abetting the provision of a corrupt benefit pursuant to s 249F of the Crimes Act.

In these circumstances, the Commission decided that it was in the public interest to conduct an investigation to establish whether corrupt conduct had occurred.

## Conduct of the investigation

During the course of the investigation, the Commission:

- obtained documents from various sources by issuing 46 notices under s 22 of the ICAC Act (requiring the production of documents)
- interviewed relevant witnesses
- conducted 15 compulsory examinations.

## The public inquiry

The Commission reviewed the information that had been gathered and the evidence given at the compulsory examinations. The Commission also took into account the fact that this matter had been the subject of media attention and speculation. After considering these matters and each of the matters set out in s 31(2) of the ICAC Act, the Commission determined that it was in the public interest to hold a public inquiry to establish the facts relating to the acquisition and registration of the Honda CR-V and to do so in a transparent manner so that public trust and confidence in the administration of government could be maintained.

This matter (known as Operation Indus) was the first of three consecutive segments of a public inquiry. The other two segments (known as Operation Jasper and Operation Acacia) involved allegations in relation to the allocation of mining exploration licences. The Commission explains in the report on Operation Jasper why the Commission determined that the three segments should be dealt with consecutively but as one public inquiry.

This segment of the public inquiry was conducted over four days, commencing on 1 November 2012. The Hon David Ipp AO QC, Commissioner, presided at the inquiry. Geoffrey Watson SC and Nicholas Chen acted as Counsel Assisting the Commission. The Commission heard oral evidence from 18 witnesses.

At the conclusion of this segment of the public inquiry, Counsel Assisting prepared submissions setting out the evidence and the findings and recommendations, which, they submitted, were open on the evidence. These submissions were provided to all relevant persons, and submissions were invited in response. In preparing this report, all of the submissions made to the Commission were taken into account.

## The people involved

Mr Roozendaal was, at all relevant times, a member of the Legislative Council in the NSW Parliament. He gave evidence that he was a member of the Centre Unity faction of the NSW Labor Party. He was also aligned with a sub-faction of the Centre Unity faction, known as the Terrigals. The Terrigals had previously been led by Edward Obeid Sr. Mr Roozendaal entered the NSW Ministry in 2004. In 2007, Mr Roozendaal held two portfolios, as minister for roads and minister for commerce. His role in the ministry is examined in further detail in chapter 4.

Peter Fitzhenry is the owner of a panel-beating and spray-painting company, Peter Fitzhenry Coach Painting Pty Ltd. He also holds a licence to deal in motor vehicles. In 2005, Moses Obeid purchased the house next door to Mr Fitzhenry's home. Over time, the two families became close and members of Moses Obeid's family became regular visitors to Mr Fitzhenry's home. Mr Fitzhenry had previously assisted members of the Obeid family in buying and selling motor cars.

Keith Goodman is Mr Fitzhenry's friend and colleague of about 35 years. He is also a licensed motor dealer. He usually conducts his business from Mr Fitzhenry's work premises through his company, KF Goodman Pty Ltd.

Edward Obeid Sr was a member of the NSW Legislative Council between September 1991 and May 2011. Over several years, he became friends with Mr Roozendaal. Edward Obeid Sr and his wife, Judith Obeid, have nine children. The male children are involved in the family

businesses, which, to a substantial extent, appear to be conducted, directly or indirectly, by or with the participation of a company known as the Obeid Corporation Pty Ltd ("the Obeid Corporation"). The Obeid Corporation has business interests in NSW and overseas. Two of the male children are Moses Obeid and Paul Obeid. Moses Obeid is both a director of Streetscape Projects Pty Ltd ("Streetscape Projects") and a director of the Obeid Corporation. Paul Obeid is a director of the Obeid Corporation. Hassam Achie, who is married to one of Edward Obeid Sr's daughters, is employed by the Obeid Corporation as a financial controller.

Rocco Triulcio and Rosario (Ross) Triulcio are brothers and control a group of companies known as the Challenge Property Investments Group, including Challenge Property Investments Pty Ltd ("Challenge Property Investments"). Since 1990, the Triulcio brothers have been close business associates of the Obeid family. The two families have been involved in several joint venture property developments, including a commercial development at Delhi Road in Ryde, development of a shopping centre in Top Ryde, a residential development in Elizabeth Bay, and adjoining parcels of land over which coal exploration licences were issued (dealt with in detail in the Commission's Operation Jasper). Nata Re is a sister of the Triulcio brothers.

Roy Agostino is an employee of Peter Warren Automotive Pty Ltd ("Peter Warren Automotive"). Peter Warren Automotive is a large car dealership which sells Honda motor vehicles. Mr Goodman, acting on the instructions of Mr Fitzhenry, arranged for the Honda CR-V eventually provided to Mr Roozendaal to be acquired from Peter Warren Automotive. In doing so, Mr Goodman dealt with Mr Agostino.

## Chapter 2: The acquisition and registration of the Honda CR-V

This report considers three main issues. This chapter deals with the acquisition and registration of the Honda CR-V. Chapter 3 concerns the degree of involvement – if any – of Mr Roozendaal in the various transactions undertaken in connection with the vehicle and whether Mr Roozendaal received a benefit as a result of the transactions. Chapter 4 concerns two questions. First, whether – by the vehicle transactions – any member of the Obeid family conferred any benefit on Mr Roozendaal. Secondly, whether Moses Obeid – by the vehicle transactions – provided a benefit to Mr Roozendaal to induce him to show, in the future, favour to members of the Obeid family.

The evidence adduced at this segment of the public inquiry revealed an essential dispute between what can generally be described as the Fitzhenry and Goodman side, on the one hand, and the Obeid and Triulcio side, on the other. Each side gave vastly differing versions as to what occurred in regard to the acquisition and registration of the vehicle. The versions within each “side” were by no means uniform and, in particular, on the Obeid and Triulcio side, the internal differences were significant.

For the reasons set out below, the Commission accepts, to a substantial degree, the Fitzhenry and Goodman version, and rejects that of the Obeids and the Triulcios.

This chapter examines the acquisition and registration of the Honda CR-V. There is no dispute that the Roozendaals (Mr Roozendaal and his wife, Amanda Roozendaal) took possession of the Honda CR-V through arrangements to which, at least, Mr Fitzhenry and Mr Goodman were parties. The extent, if any, to which Moses Obeid, the Triulcio brothers and Mr Roozendaal were involved was in dispute. The issues for discussion and determination in this chapter relate to the circumstances in which the Honda CR-V was purchased and the changes in registered ownership.

### Ms Roozendaal needs a car and Moses Obeid becomes involved

On or about 10 May 2007, Ms Roozendaal was involved in an accident while driving her 2001 model Honda CR-V. The car was eventually written-off by the Roozendaals’ insurance company. The Roozendaals commenced searching for a replacement vehicle and decided on a black Honda CR-V.

It is common ground that Moses Obeid came to learn that the Roozendaals were looking for a car and proceeded to discuss with Mr Roozendaal the latter’s need to purchase a car.

Mr Fitzhenry gave evidence to the Commission that, in May 2007, Moses Obeid asked him to assist in obtaining a Honda CR-V. Mr Fitzhenry related the following conversation with Moses Obeid:

*[Counsel Assisting]:* Now, what did Moses say to you, what did he ask you?

*[Mr Fitzhenry]:* He wanted a top-of-the-range CRV [Honda] with leather upholstery, well, the top-of-the-range meant the top-of-the-range, the best one he could get, and it had to be in black and he was going to let me know whether it needed tinted windows or not. And that was the, that was the description of the car that I had to source.

*[Q]:* Right. Did he tell you anything else, for example, for whom the car was to be bought?

*[A]:* Yeah, he said to me that ah, ah, the car was to be bought for Eric because Eric had done a few

*favours for dad. And that was the extent of the conversation.*

...

[Q]: *Did he tell you who Eric was?*

[A]: *Eric Roozendaal.*

[Q]: *But did he mention that name during this conversation?*

[A]: *Absolutely yeah.*

Mr Fitzhenry told the Commission that Moses Obeid's statement that, "Eric had done a few favours for dad" stuck in his memory because it was "a bit out of the ordinary I would have thought... well, I couldn't understand why Eric Roozendaal would have to owe favours to Eddie Obeid". He said that he did not question Moses Obeid further about this statement.

A notebook maintained at Mr Fitzhenry's workshop contained entries relating to the Honda CR-V. Mr Fitzhenry described the notebook as "a general reminder of what was going on and what I had to do or what I had done". Mr Fitzhenry gave evidence that two or three people, including himself, had access to and used the notebook to record telephone and other conversations. Mr Fitzhenry said that all of the entries relating to the Honda CR-V were written by him. These entries are undated, although approximate dates of entries can be estimated by reference to dates in other entries. The Commission accepts that, to the extent that the notebook corroborates Mr Fitzhenry's evidence, it is reliable.

One of the notebook entries made by Mr Fitzhenry is as follows:

*CRV Honda/Black/Sport/For Road Minister.*

Mr Fitzhenry said that he made this entry when Moses Obeid asked him to attempt to find a Honda CR-V Sports vehicle. The entry in the notebook, "For Road Minister" referred to Mr Roozendaal, who was minister for roads at the time. This entry supports Mr Fitzhenry's evidence that Moses Obeid asked Mr Fitzhenry to find a Honda CR-V for Mr Roozendaal. By reference to other dated entries in the notebook, this entry was made in May 2007.

Mr Fitzhenry asked his colleague and licensed motor dealer, Mr Goodman (who had contacts in the car industry), to find a black, top-of-the-range, Honda CR-V with "all the extras that are available". As appears from the following exchange, Mr Goodman, in material respects, confirmed this evidence:

[Counsel Assisting]: *Now, do you remember an occasion when Mr Fitzhenry asked you to organise the purchase of a black Honda CRV?*

[Mr Goodman]: *Yes.*

[Q]: *Do you know where you were, were you on the phone or were you face to face with Mr Fitzhenry when he made the request?*

[A]: *He phoned me and I met him at his workshop and he told me that he had to get a car, a black Honda CRV for Eric Roozendaal, that Moses Obeid asked him to, that the car had to be a Sport and get it as soon as possible.*

Mr Goodman testified that he was able to get a significantly discounted vehicle, saying "...if you know a dealer that has to get numbers they'll do you a better deal and that's what we did". Mr Goodman found that a black, automatic Honda CR-V Sports was available from Peter Warren Automotive. The price of the vehicle quoted to Mr Goodman was \$38,800, "on the road"; although, the retail price for such a vehicle was approximately \$44,000.

Mr Fitzhenry gave evidence that he telephoned Moses Obeid and advised him that he and Mr Goodman had found a Honda CR-V and informed him of the delivery date. Moses Obeid later gave Mr Fitzhenry a cheque dated 18 June 2007 in the sum of \$44,800 drawn on the account of Challenge Property Investments. The Commission infers from this that Mr Fitzhenry told Moses Obeid that the price of the Honda CR-V was \$44,800.

Mr Fitzhenry and Mr Goodman each charged \$3,000 commission for obtaining the Honda CR-V. When questioned about the commission, Mr Fitzhenry did not state that he disclosed to Moses Obeid that he and Mr Goodman intended to charge commission. It was probably obvious to Moses Obeid that he would have to pay Mr Fitzhenry some commission for his services, but the amount of the commission was not revealed to him.

According to Mr Fitzhenry, a day or so after this conversation, Moses Obeid contacted him and told him to proceed with the purchase.

Moses Obeid gave a different version, and eventually two different versions, of the circumstances under which he asked Mr Fitzhenry to find a Honda CRV but, for the reasons set out below, the Commission does not accept his evidence.

## For whom was the Honda CR-V intended?

Mr Fitzhenry's notebook records, "Eric Black 07 Reverse sensor auto" and "Amanda Roozendaal, Minister for Roads...". Mr Roozendaal's mobile number and residential address were also noted. Mr Fitzhenry said that he made this note as a result of a telephone conversation with Moses Obeid, during which Moses Obeid confirmed the colour and model of the required vehicle and said that it had to be automatic with reverse sensor lights and leather upholstery.



By reference to other entries in the notebook, Mr Fitzhenry testified that the entry was made on 2 or 3 June 2007.

This notebook entry, which the Commission finds was made contemporaneously with or soon after a telephone conversation between Mr Fitzhenry and Moses Obeid, is cogent evidence that on 2 or 3 June 2007 Moses Obeid told Mr Fitzhenry that the car was being acquired by Mr Roozendaal for Ms Roozendaal.

Mr Goodman testified that, during the first discussion he had with Mr Fitzhenry about the Honda CR-V, Mr Fitzhenry told him that, “he had to get a car, a black Honda CR-V for Eric Roozendaal, that Moses Obeid asked him to, that the car had to be a Sport and get it as soon as possible”.

Mr Goodman said that he asked Gary Rumble, a car industry contact, to find a vehicle with the specifications that Mr Fitzhenry had provided. Through Mr Rumble, a Honda CR-V was identified and located at Peter Warren Automotive. At that stage, Mr Fitzhenry did not speak to anyone at Peter Warren Automotive and Mr Rumble made all the necessary arrangements with them.

The Peter Warren Automotive file contains an unsigned draft contract, dated 6 June 2007, reflecting “Amanda Rosendale” as the intended purchaser of the Honda CR-V. Mr Goodman said that he could vaguely recall a conversation with Mr Agostino of Peter Warren Automotive, during which he advised Mr Agostino that the car was to be purchased in Amanda Roozendaal’s name. Mr Goodman confirmed that at the time, he pronounced and spelt the name “Roozendaal” as “Rosendale”. Mr Goodman said that he did not know how to spell “Roozendaal”. Throughout his evidence at the public inquiry, Mr Goodman mispronounced “Roozendaal” as “Rosendale”.

The original Peter Warren Automotive file relating to the purchase of the Honda CR-V was tendered at the public inquiry. Mr Agostino was the Peter Warren Automotive employee responsible for the sale of the vehicle. He was essentially a neutral witness. He confirmed that the file produced by Peter Warren Automotive was a file typically used in the Honda section of Peter Warren Automotive. While he did not have a specific recollection about the circumstances surrounding the sale of this vehicle, he said that in the normal course of events a dealer would telephone him and provide him with the name and address of the purchaser. In this case, he initially received information indicating that the vehicle would be purchased in the name of “Amanda Rosendale”. Mr Agostino confirmed that he wrote the name “Amanda Rosendale” on the front of the Peter Warren Automotive file. This must have occurred at about the time he opened the file or soon thereafter. The spelling “Rosendale” on the Peter Warren Automotive file and documents is a strong indication that it was Mr Goodman, or Mr Rumble on Mr Goodman’s instructions, who spoke to Mr Agostino and told him that the vehicle was for Ms

Roozendaal. Mr Goodman could have obtained that information only from Mr Fitzhenry, and Mr Fitzhenry could have received that information only from Moses Obeid.

The Commission accordingly infers that, on or before 6 June 2007, either Mr Goodman or Mr Rumble on Mr Goodman’s instructions, informed Peter Warren Automotive that the Honda CR-V was going to be purchased by “Amanda Rosendale”. The Commission also infers that until 6 June 2007, or some short period before that date, Moses Obeid, Mr Fitzhenry and Mr Goodman intended that Ms Roozendaal would become the registered owner of the Honda CR-V.

### **The Honda CR-V is registered in the name of Mrs Re and the Roozendaals get the car**

On 15 June 2007, Peter Warren Automotive issued a new vehicle tax invoice in the name of Mrs Nata Re, recording her as the purchaser of the Honda CR-V. Thus, at some time between 6 June 2007 (the date of the unsigned draft contract reflecting “Amanda Rosendale” as the intended purchaser) and 15 June 2007, Peter Warren Automotive must have been advised that the purchaser was no longer to be Ms Roozendaal but Mrs Re. How this occurred was investigated during the public inquiry.

Mr Fitzhenry said that, on some unspecified date, Moses Obeid was in his office and told him to have the Honda CR-V registered in the name of Mrs Re. Mr Fitzhenry said that, on this occasion, Moses Obeid made a call on his mobile telephone. Within minutes, a copy of Mrs Re’s driver’s licence was received by facsimile at Mr Fitzhenry’s office. The copy of the licence was sent to Mr Fitzhenry to facilitate the registration of the vehicle in Mrs Re’s name.

Mr Fitzhenry said that he, in turn, gave the copy of Mrs Re’s driver’s licence to Mr Goodman so that Mr Goodman could do whatever was necessary to have the car registered in Mrs Re’s name. Mr Fitzhenry said that he was not concerned with the identity of the party who would end up as being the registered owner. He said that he was “interested in closing the deal, supplying the correct motor car and getting my profit”.

Mr Goodman confirmed that he was told by Mr Fitzhenry that the car was to be registered in Mrs Re’s name and that Mr Fitzhenry provided him with a copy of Mrs Re’s licence. According to Mr Goodman, he did not ask Mr Fitzhenry, and Mr Fitzhenry did not explain why the vehicle was to be registered in Mrs Re’s name. Mr Goodman said that, when he was told that the car was to be registered in the name of Mrs Re, he simply “did what [he] was told”.

Mr Goodman proceeded to instruct Mr Agostino to have the car registered in Mrs Re's name. Mr Agostino said that he received a phone call during which he was asked to change the name of the purchaser from "Amanda Rosendale" to "Nata Re". Mr Agostino complied with these instructions by whiting-out the name "Mrs Rosendale" and Ms Roozendaal's address on the file and writing Mrs Re's name and address in his own hand over the top of Ms Roozendaal's deleted details. This can be seen on the file concerned. On 20 June 2007, the Honda CR-V was duly registered in Mrs Re's name.

The Commission interposes some noteworthy facts here. On 18 June 2007 (two days before registration of the vehicle in the name of Mrs Re), Mr Roozendaal sought a cover note from an insurance company that provided interim cover for the vehicle on the basis that the purchase price for the vehicle was \$42,000. The purchase date was given as 18 June 2007 and the insured persons were Mr and Ms Roozendaal. On 19 June 2007, Mr Roozendaal took possession of the vehicle. On 21 June 2007, Ms Roozendaal had an accident while driving the Honda CR-V. On 2 July 2007, a policy was issued for the vehicle with the purchase price of the vehicle changed to \$43,000. On 2 August 2007, the Honda CR-V was transferred from Mrs Re to Ms Roozendaal. On 9 August 2007, Ms Roozendaal lodged a claim in respect of the accident that occurred on 21 June 2007. A possible inference arises that Mr Roozendaal knew, when he took possession of the vehicle, that it was registered in the name of Mrs Re and that it was Ms Roozendaal's accident that precipitated the transfer of the vehicle into Ms Roozendaal's name, thus enabling Ms Roozendaal to make the subsequent insurance claim. There is, however, insufficient evidence for the Commission to make any reliable findings arising out of these facts.

Mr Fitzhenry proceeded to provide Mr Goodman with a bank cheque, dated 15 June 2007, drawn in favour of Peter Warren Automotive in the amount of \$38,800 for the purchase of the vehicle. The \$38,800 came out of Mr Fitzhenry's own funds. On 19 June 2007, Mr Goodman collected the car from Peter Warren Automotive and handed over the bank cheque as payment. He drove the car back to Mr Fitzhenry's workshop.

Mr Fitzhenry said that, after Mr Goodman delivered the car to his workshop, he telephoned Moses Obeid and advised him that the car was ready to be picked up. He believed that the car was collected the next day by Mr Roozendaal, whom he recognised. Mr Fitzhenry said that he did not speak to Mr Roozendaal as one of his employees dealt with him.

Mr Fitzhenry said that, when Mr Roozendaal collected the vehicle, he did not pay any money for it and did not sign a contract relating to the vehicle. Moses Obeid had told Mr Fitzhenry to provide Mr Roozendaal with the keys to the car and this is what he did. Mr Fitzhenry said that he

was relying on Moses Obeid to do whatever was necessary to reimburse him for the money he had laid out, and the Commission accepts that this was the understanding or agreement between the two men.

### The payments that were made in respect of the purchase of the Honda CR-V

It is not an overstatement to say that the payments that were made in respect of the purchase of the Honda CR-V were extraordinarily complex (set out below). This complexity is strongly suggestive of a labyrinthine plan to disguise what was occurring.

- On 15 June 2007, Mr Fitzhenry provided Mr Goodman with a \$38,800 bank cheque to pay Peter Warren Automotive. This is the cheque that Mr Goodman used to pay for the vehicle. On 18 June 2007, it was deposited into Peter Warren Automotive's bank account.
- On 18 June 2007, Challenge Property Investments (the Triulcio company) drew a cheque in the amount of \$44,800 in favour of Mr Fitzhenry. The Triulcios intended that this cheque be used to pay Mr Fitzhenry the purchase price of the vehicle (\$44,800 being the purchase price agreed between Mr Fitzhenry and Moses Obeid). That cheque was given to Mr Fitzhenry.
- Challenge Property Investments' general ledger records the \$44,800 payment as a loan to the Obeid Corporation. At the time that the Honda CR-V was purchased, the Obeid Corporation had an existing loan facility with Challenge Property Investments in the amount of \$200,000. The \$44,800 payment brought the debit balance relating to the Obeid Corporation's loan facility in the Challenge Property Investments ledger account to \$244,800.
- The Challenge Property Investments cheque for \$44,800 was endorsed by Mr Fitzhenry in favour of Mr Goodman's company, KF Goodman Pty Ltd. On 19 June 2007, that cheque was deposited into KF Goodman Pty Ltd's bank account.
- On 20 June 2007, Mr Goodman gave Mr Fitzhenry a cheque in his favour in the amount of \$41,800 drawn on the account held by KF Goodman Pty Ltd. Mr Goodman's company retained \$3,000 of the \$44,800 Challenge Property Investments cheque that Mr Fitzhenry had endorsed in favour of Mr Goodman's company. That \$3,000 represented Mr Goodman's commission.
- Mr Fitzhenry had paid Peter Warren Automotive \$38,800 on 15 June 2007. The difference between the \$41,800 received by Mr Fitzhenry and that



\$38,800 represented Mr Fitzhenry's commission of \$3,000.

- On 20 June 2007, \$10,800 was electronically transferred from the Obeid Corporation to Challenge Property Investments. In Challenge Property Investments' general ledger account, this payment of \$10,800 is described as "repay loan" and is recorded as a credit against the Obeid Corporation's loan account, thereby reducing the balance owed by the Obeid Corporation to Challenge Property Investments to \$234,000.
- The Obeid Corporation's MYOB general ledger account for the Obeid Family Trust No 1 records the payment of \$10,800 as a repayment of a loan made by Challenge Property Investments to it with the notation, "repay loan – moses [sic] car deal (not to come off balance still owe \$200,000)".
- On 29 June 2007, a deposit of \$34,000 was paid into the account held by KF Goodman Pty Ltd from an account held jointly by Mr and Ms Roozendaal. This was the payment made by the Roozendaals towards the cost of the Honda CR-V.
- On 5 July 2007, KF Goodman Pty Ltd paid \$34,000 to Challenge Property Investments and, on the same day, Challenge Property Investments deposited this sum into its bank account. The Challenge Property Investments' general ledger records this payment on 5 July 2007 as being "Repayment of c" (presumably "repayment of car").
- The note on the Obeid Corporation's MYOB transaction report relating to the \$34,000 payment is truncated but states, "Repayment of the car purchase money borrow \$4...". The Obeid Corporation books of account show that this payment reduced the balance owing by the Obeid Corporation to Challenge Property Investments in respect of its liability under the loan account to the original \$200,000 amount (that being the sum owing under the loan account immediately prior to this exchange of payments relating to the car).

These payments had the following effect. Challenge Property Investments paid Mr Fitzhenry \$44,800 for the Honda CR-V. This sum constituted a loan by Challenge Property Investments to the Obeid Corporation. Mr Fitzhenry used \$38,800 of this sum to reimburse himself for the payment he had made to Peter Warren Automotive for the Honda CR-V. A further \$3,000 was used to pay Mr Fitzhenry's commission, and \$3,000 was used to pay Mr Goodman's commission. The Roozendaals paid \$34,000 to KF Goodman Pty Ltd for the vehicle and this sum

was used to reimburse Challenge Property Investments partly for its loan of \$44,800 to the Obeid Corporation. The balance of the loan made by Challenge Property Investments (\$10,800) was paid by the Obeid Corporation.

In summary, the Honda CR-V cost \$44,800, including commission of \$6,000 to Mr Fitzhenry and Mr Goodman. Of this sum, the Roozendaals paid \$34,000. The balance of \$10,800 was paid by the Obeid Corporation, a company that ostensibly had no interest whatever in the Honda CR-V. On this analysis, the \$10,800, at least prima facie, was a gift by the Obeid Corporation to the Roozendaals.

### **The registration of the CR-V is transferred from Mrs Re to Ms Roozendaal**

Mr Fitzhenry testified that, within a week of 18 June 2007, Moses Obeid asked him to transfer the registration of the Honda CR-V from Mrs Re to Ms Roozendaal. For at least two reasons, Mr Fitzhenry's estimation of the time he received this instruction seems to be too early. First, the car was not in fact registered in Ms Roozendaal's name until 2 August 2007. Secondly, Mr Goodman testified that it was on about 7 July 2007 that Mr Fitzhenry told him to transfer the registration of the Honda CR-V into his company's name, KF Goodman Pty Ltd, and then transfer it to Ms Roozendaal.

Mr Fitzhenry testified that he asked Mr Goodman to deal with Moses Obeid's request and said that he did not become involved in this part of the transaction. He said that Moses Obeid provided him with Ms Roozendaal's name and address. He believed that Ms Roozendaal's licence was given to Mr Goodman. He said that he knew nothing further about the transfer of registration.

According to Mr Goodman, Mr Fitzhenry said, "...Moses wants the car out of Re's name and into Roozendaal's name". Why the vehicle could not have been transferred directly from Mrs Re to Ms Roozendaal was not explained.

Mr Goodman transferred the Honda CR-V from Mrs Re to his company, KF Goodman Pty Ltd, by completing an Application for Transfer of Registration for Motor Dealers. The application records the date of purchase as 7 July 2007, the market value as \$32,000, and the odometer reading as 2,800 kilometres. Mr Goodman said he never paid money to Mrs Re and never spoke with her. He also never saw the vehicle again after he collected it from Peter Warren Automotive and delivered it to Mr Fitzhenry's work premises.

Mr Goodman completed a Form 4 document. This document is required to be filled out by the licensed motor dealer with the particulars of any second-hand vehicle being offered for sale and is a warranty for the purchaser of the vehicle. The purchaser is required to take the Form 4

document to the then Roads and Traffic Authority (RTA) within 14 days of the date of sale.

According to the Form 4 document that Mr Goodman completed, the vehicle was purportedly sold to Ms Roozendaal on 26 July 2007 (although the Roozendaals took possession of the vehicle in mid-June 2007). The odometer reading was recorded as 2,817 kilometres at the time of sale (but the vehicle was sold in new condition), the sale price was recorded as \$34,000 (but the price in fact paid was \$44,800) and the date of manufacture was recorded as July 2007 (although the car was delivered to Peter Warren Automotive in May 2007). Mr Goodman told the Commission he was given all the information for the Form 4 document by Mr Fitzhenry. He said, "I only did what I was told, I was to acquire the car for \$32,000 and sell it back to them at the price they paid \$34,000".

Mr Goodman also made corresponding entries relating to the acquisition of the Honda CR-V from Mrs Re and its disposal to Ms Roozendaal in his Form 2 Dealers and Wholesalers Register (also known as a Police Book), which he is required to maintain as a licensed motor dealer.

While it is clear that some of the information recorded in the forms dealt with above was false, there is conflicting evidence about who was responsible for the provision of the false information and the Commission considers that there is insufficient evidence to make a finding on this issue.

### Mr Agostino's evidence and the Peter Warren Automotive file

The Peter Warren Automotive file and Mr Agostino's evidence establishes the following facts:

- On 1 May 2007, a new Honda CR-V was delivered to Peter Warren Automotive. On 2 May 2007, the Honda CR-V was booked into Peter Warren Automotive stock.
- At 1.47 pm on 6 June 2007, a draft contract for the purchase of the Honda CR-V by "Amanda Rosendale" was prepared. The draft contract specified the purchase price as \$38,800, including stamp duty and on-road costs. This version of the contract had "rewrite" written through it in handwriting. During the course of the public inquiry, a statement by handwriting expert Candice Moussa was tendered. She examined the entries that had been obliterated on the contract and concluded that the contract dated 6 June 2007 was originally in the name of "Amanda Rosendale" and had Ms Roozendaal's name printed on it but this was later replaced with Mrs Re's address. Mr Agostino confirmed that Mrs Re's address was written in his handwriting.
- At 10.00 am on 13 June 2007, a Repair Order was raised in the name of "Amanda Rosendale" for a "full tank of fuel" and "pre-delivery".
- On 15 June 2007:
  - i. Peter Warren Automotive issued a New Vehicle Tax Invoice to Nata Anne Re in the sum of \$38,800
  - ii. a New Vehicle Delivery Checklist was signed by Mr Agostino and purportedly signed by Mrs Re, although the customer's name was recorded as "Amanda Rosendale"
  - iii. an interim registration label, E335181, was issued for the Honda CR-V. Mr Agostino said that, in 2007, the car could be driven for up to three months with an interim registration label.
- At 11.56 am on 18 June 2007, a new contract was printed with the name of the purchaser on the front page being Nata Anne Re. This contract also had the words "rewrite" written through it in handwriting. The name "Amanda Rosendale" appeared in the footer of the document.
- At 3.46 pm on 19 June 2007, the third and final version of the contract was printed. Nata Anne Re was named as the purchaser. Again, the name "Amanda Rosendale" appeared in the footer of the document. Mr Agostino said the contract was reprinted for the third time because the amount due for compulsory third-party insurance had increased slightly. David Nguyen, a Peter Warren Automotive employee, confirmed that it was his signature on this version of the contract. He signed the contract on behalf of Peter Warren Automotive.
- On 20 June 2007, the registration fee of \$1,550 was paid on the Honda CR-V in the name of Nata Anne Re.

Mr Agostino prepared the Application for Registration that Peter Warren Automotive sent to the RTA to register the Honda CR-V in Mrs Re's name. The document was originally filled out in the name of "Amanda Rosendale" but Mr Agostino whited-out her name and replaced it with the name "Nata Anne Re" when he was told there would be a change of details.

He said that, when a new car is purchased, the purchaser is given service and warranty booklets and spare keys. Mr Agostino said that the registration papers for the vehicle would have been posted to Mrs Re's address because the registration was paid on 20 June 2007, after the car had been collected (this being Peter Warren Automotive's usual practice).

The Peter Warren Automotive file and Mr Agostino's evidence support important aspects of Mr Fitzhenry's and Mr Goodman's evidence. The Commission finds that, on or before 6 June 2007, Mr Goodman negotiated with Peter Warren Automotive to purchase the car for \$38,800 in the name of "Amanda Rosendale" and, at some point between 6 and 15 June 2007, Mr Agostino received instructions from Mr Goodman to change the purchaser's name from "Amanda Rosendale" to Nata Anne Re and also to arrange for the registration of the Honda CR-V in Mrs Re's name.

Mr Agostino's evidence and the Peter Warren Automotive documents provide cogent corroboration for Mr Fitzhenry's and Mr Goodman's evidence generally. They also confirm that the original intention of the parties was to arrange for a new Honda CR-V to be registered in the name of Ms Roozendaal. Conversely, this evidence contradicts the evidence given by the members of the Obeid and Triulcio families who testified, particularly the evidence of Moses Obeid and Rocco Triulcio.

The Commission rejects Moses Obeid's assertion that the Peter Warren Automotive file was fabricated or doctored. There was no evidence to support this contention. Peter Warren Automotive employees, Mr Agostino and Mr Nguyen, both recognised their handwriting on the Peter Warren Automotive documents. With the exception of issues about the authenticity of some of Mrs Re's signatures on the documents (dealt with below), the Commission is satisfied that the documents on the file are genuine and contemporaneous. Moses Obeid's assertion was without foundation and made in desperation, knowing that the file contradicted his version of events.

## Mr Roozendaal's evidence

Mr Roozendaal told the Commission that he spoke to Edward Obeid Sr about the fact that there had been an accident involving his 2001 Honda CR-V. Edward Obeid Sr suggested that he speak to Moses Obeid about a replacement vehicle because he had a contact in the car industry (the contact was Mr Fitzhenry).

Mr Roozendaal said that he spoke to Moses Obeid after the 2001 Honda CR-V was officially written-off by the insurance company. He told him that he wanted a specific car – a middle-of-the-range Honda CR-V, preferably black in colour. He told Moses Obeid that it could be second-hand or an almost-new demonstrator vehicle and that he was willing to pay around \$31,000. This price estimate was derived from combining the \$22,185 proceeds from the insurance claim and \$10,000 held in a bank account.

According to Mr Roozendaal, Moses Obeid arranged the purchase of the vehicle. Mr Roozendaal said that he spoke to Mr Fitzhenry on one occasion, although he could not recall when he spoke with him or under

what circumstances. The call charge records support Mr Roozendaal's evidence.

Mr Roozendaal said that Moses Obeid told him that he had located a black Honda CR-V. He said that there was some discussion about the price of the car. He said that he was told by Moses Obeid that the car had previously been registered and there were very few kilometres on the odometer. Mr Roozendaal accepted that he knew that the car was worth well in excess of \$34,000. He said that they negotiated a price of \$34,000, although he knew that the retail value of the car was around \$43,000. He said that he assumed that he was getting a discounted vehicle, and accepted that he was getting a deal through Moses Obeid's contacts that generally "no private citizen" could obtain. Mr Roozendaal told the Commission that he picked up the Honda CR-V on 19 June 2007.

## The Obeid and Triulcio versions

A fundamentally different version of events was given by members of the Obeid and Triulcio families. Their evidence was, in general terms, inconsistent in important details both as between themselves and when compared with independent documentary evidence and other credible evidence.

It is not possible to set out their version coherently in a composite chronological form. Accordingly, the evidence that each gave is dealt with separately. In his version, Rocco Triulcio was the first of the Obeid/Triulcio group to become involved in the transactions and therefore this section commences with his evidence.

## Rocco Triulcio's evidence

Rocco Triulcio said that, at the end of May 2007, he purchased a BMW 7 Series Individual 750i vehicle ("the BMW") and registered it on 1 June 2007. He said that, around this time, he first met Mr Fitzhenry in the driveway in front of Moses Obeid's home. Moses Obeid had mentioned to Rocco Triulcio that Mr Fitzhenry was a spray painter and could do "something" about the BMW's wheels. Rocco Triulcio said that he asked Mr Fitzhenry to paint the wheels on the BMW. He said, "...it was painting with a special paint because he's got, it's a Porsche paint, I know it sounds funny on a BMW car".

Rocco Triulcio said that, on or about 1 or 2 June 2007, Mr Fitzhenry, or someone from his business, picked up the BMW from a dealership in Rushcutters Bay and drove it to Mr Fitzhenry's workshop so that the work could be carried out on the vehicle. He said that the car remained at Mr Fitzhenry's workshop for between seven and 10 days. This evidence is supported by a note that Mr Fitzhenry made in his notebook on 2 or 3 June 2007. The note is as follows:

*BMW Rocky Wheels Dents/\$1,200 7 Series. Honda CRV + Tint*

According to Mr Fitzhenry, he made this note as a result of a conversation with Moses Obeid, during which he was asked by Moses Obeid to provide a quote for work on a BMW 7 Series vehicle owned by Rocco Triulcio. The work involved repairing the wheels and minor dents on the vehicle. Mr Fitzhenry said that, during the conversation about work on the BMW, Moses Obeid told him that the Honda CR-V that he had been asked to source for Mr Roozendaal needed tinted windows. Mr Fitzhenry said, however, that he did not do any work on the BMW. He said that he was introduced to Rocco Triulcio on one occasion by Moses Obeid.

Rocco Triulcio said that he first went to Mr Fitzhenry's workshop the day after the BMW was taken there and on that occasion Mr Fitzhenry asked him what he was planning to do with his Mercedes-Benz CLS ("the Mercedes"). He told Mr Fitzhenry that he wanted to sell the Mercedes and purchase a car for his sister, Mrs Re. According to Rocco Triulcio, Mr Fitzhenry told him that he could arrange to sell the Mercedes through a dealership in Orange. He said that he told Mr Fitzhenry words to the effect, "if anything has to happen with the CLS [the Mercedes] it's got to be north of a hundred", meaning that he would sell the Mercedes only for a price in excess of \$100,000. Significantly, on this account, the transaction involving the Mercedes was entered into entirely separately from any transaction involving the Honda CR-V.

Rocco Triulcio said that he went to see Mr Fitzhenry at his work premises on a second occasion to check the progress on the work being carried out on the BMW. On this occasion, Mr Fitzhenry told him that he (Mr Fitzhenry) could acquire a Honda CR-V for his sister. Rocco Triulcio said that he had not specifically asked Mr Fitzhenry to obtain a Honda CR-V and told the Commission that the idea to get such a vehicle was Mr Fitzhenry's and not his own. He was unsure whether the proposed colour of the Honda CR-V was discussed. He said that Mr Fitzhenry told him that the Honda CR-V was new and would cost around \$40,000.

Rocco Triulcio said that, after he left Mr Fitzhenry's workplace, he contacted his sister by telephone and spoke with her about the possibility of acquiring a Honda CR-V for her. He told her it was a new vehicle but they did not discuss its colour. According to Rocco Triulcio, she was happy to acquire the vehicle.

He said that he then spoke to Mr Fitzhenry and approved the purchase of the Honda CR-V. Mr Fitzhenry told him that the price of the Honda CR-V was around \$44,000. Likewise, on this account, the transaction involving the Honda CR-V was entered into entirely separately from any transaction involving the Mercedes. At that stage, Rocco Triulcio asked his sister for a copy of her driver's licence so that he could have the vehicle transferred to her.

Rocco Triulcio said that he did not make any enquiries as to whether \$44,000 was a fair market price for such a vehicle. He claimed that he did not do this because he was trying to develop a relationship with Mr Fitzhenry. At the time, the Obeid and Triulcio families were intending to carry out a joint venture development behind Mr Fitzhenry's home and they needed his cooperation for the development to move forward. He explained that he made no demands on Mr Fitzhenry because he was looking to keep him "on side". He told the Commission: "My motive behind all this with Fitzhenry was always I'm doing a development at the back of him, I'm appeasing him to have a relationship because of a future development that I could possibly have and he could be an objector onto that development site, so I just let it ride".

Rocco Triulcio said that he went back to Mr Fitzhenry's work premises on a third occasion for the purpose of collecting the contract for the Honda CR-V. This was approximately a week after the BMW was first delivered to the workshop on 1 or 2 June 2007. He took the contract out to his sister's office for her signature. He said that he was unable to recall specific dates with any precision.

On the fourth occasion he attended Mr Fitzhenry's work premises, he paid for the Honda CR-V by handing over a cheque dated 18 June 2007 for \$44,800 payable to Mr Fitzhenry. He said that he handed over the cheque on either 18 or 19 June 2007 (Mr Goodman banked this cheque on 19 June 2007). He did not receive a receipt, contract, registration papers or keys.

He believed that, a day or so after handing over the cheque for the Honda CR-V on 18 or 19 June 2007, he attended Mr Fitzhenry's workshop on a fifth occasion and had a conversation with him about the Mercedes. Mr Fitzhenry told him that he would be able to sell the Mercedes for only around \$70,000 or \$75,000. Rocco Triulcio was unhappy with this price: "I didn't push too hard because of the fact, again, my motive here was, I don't want to disturb him too much because of the fact that I'm doing a development behind him. So and I tested the ground by saying, 'Just sell the CRV, I don't want it'". He said that he made this request in a polite manner because he wanted their relationship to remain amicable.

Rocco Triulcio explained that, later, he pulled out of the deal with Mr Fitzhenry to buy the Honda CR-V because he "didn't want to sell the Mercedes at that price and I didn't want to have [a] Mercedes and a CRV. I didn't want another car". He stated that he did not take the Mercedes to another dealer because he did not want to upset Mr Fitzhenry. Instead, he gave the Mercedes to his sister.

Rocco Triulcio had problems explaining why he felt he had been placed in a difficult position by Mr Fitzhenry. While he agreed that the purchase of the Honda CR-V and the sale of the Mercedes were entirely separate transactions,



he said that he felt like he had been “used”. Why he held that view, he could not satisfactorily explain. He also did not explain why, when he first requested Mr Fitzhenry to acquire the Honda CR-V, he said nothing then about disposing of the Mercedes and appeared at that time to be content to have both cars.

His evidence was unclear as to whether he had had further conversations with Mr Fitzhenry about the Honda CR-V, although he recalled that he had been told that it had been sold.

Rocco Triulcio recalled that Moses Obeid was present on two or three occasions when he attended Mr Fitzhenry’s workshop. He said that he told Moses Obeid that he was looking for a car for his sister and that Mr Fitzhenry had a Honda CR-V available. He said that Moses Obeid was not present when he asked Mr Fitzhenry to resell the Honda CR-V.

According to Rocco Triulcio, Mr Roozendaal’s name was not mentioned by either Mr Fitzhenry or Moses Obeid in his presence. He said that he later found out from his brother, Rosario Triulcio, that Challenge Property Investments had received \$34,000 for the Honda CR-V from Mr Goodman but knew nothing about Mr Roozendaal’s involvement in the transaction. While he initially said that he was “happy” to receive that amount, he later said that there had been “some discontent” about the way in which the transaction took place. He told the Commission: “The way he [Mr Fitzhenry] was acting towards me was very, I believe was very unconscionable [sic] in the sense of I can see he was trying to make extra deals and extra money out of it”.

Rocco Triulcio said that he knew nothing of an argument between Paul Obeid and his brother, Rosario Triulcio, about Mr Fitzhenry’s handling of negotiations relating to the Honda CR-V. He was unable to explain why the payments relating to the Honda CR-V were recorded in the Challenge Property Investments’ general ledger as loans made by Challenge Property Investments to the Obeid Corporation. He also could not explain why the \$34,000 payment made from the bank account of KF Goodman Pty Ltd on 5 July 2007 was credited to the Obeid Corporation loan account. Rocco Triulcio said that the MYOB records were entered by his brother, Rosario Triulcio, although he told the Commission that he would have advised his brother about what had transpired with Mr Fitzhenry: “Yeah, I would have said to him we’re selling the CRV ... Nata’s getting the car [the Mercedes] ... My brother would have had his own assumptions ... And his own reasonings [for entering the payments as loans]”.

Rocco Triulcio also said that he knew nothing about the subsequent transfer of the registration of the Honda CR-V from Mrs Re to KF Goodman Pty Ltd and, finally, to Ms Roozendaal.

## Moses Obeid’s evidence

Moses Obeid denied telling Mr Fitzhenry that the Honda CR-V was intended for Mr Roozendaal, or that the car was being provided to Mr Roozendaal for favours Mr Roozendaal had done for his father, Edward Obeid Sr. He also denied that he told Mr Fitzhenry to arrange for the transfer of the registration from Mrs Re to KF Goodman Pty Ltd and then to Ms Roozendaal.

Moses Obeid said that he was present at two meetings that took place in relation to the Honda CR-V. The first occasion, according to Moses Obeid, was in late May 2007, when Rocco Triulcio and Mr Fitzhenry met at Mr Fitzhenry’s workshop. Rocco Triulcio had damaged all four wheels on his BMW while parking the vehicle and there were also dents in the doors of the vehicle. Moses Obeid recalled that Rocco Triulcio was “rather animated in how those rims come [sic] to be scratched”. He said that Rocco Triulcio asked Mr Fitzhenry to fix the wheels and dents on the BMW.

Moses Obeid said that, on the same occasion, Rocco Triulcio asked Mr Fitzhenry to sell his Mercedes and purchase a car for his sister. Moses Obeid said that Rocco Triulcio told Mr Fitzhenry that he wanted a Honda CR-V and that it should be a “top of the line” car. He could not recall whether he requested a particular colour. Moses Obeid said that Mr Fitzhenry agreed to seek a valuation for the Mercedes and to obtain a Honda CR-V. Mr Fitzhenry requested that Rocco Triulcio bring the BMW back to his workshop the following week.

Moses Obeid gave evidence that, at a second meeting, Mr Fitzhenry told Rocco Triulcio that he had located a Honda CR-V for his sister and gave him a “ball park” valuation for his Mercedes. He could not recall what figure was given. Rocco Triulcio told Mr Fitzhenry to proceed with the purchase of the Honda CR-V and the sale of the Mercedes.

Moses Obeid said that he did not hear anything further about the dealings between the two men until Rocco Triulcio telephoned him in an “absolute rage” on the day that he (Rocco Triulcio) had given Mr Fitzhenry the cheque for the Honda CR-V. According to Moses Obeid, Rocco Triulcio was angry because Mr Fitzhenry had told him that he was unable to obtain a suitable price for the Mercedes.

Moses Obeid said that he telephoned Mr Fitzhenry and told him that Rocco Triulcio would no longer buy the Honda CR-V. He told him that Rocco Triulcio was very upset about the situation with the Mercedes.

Moses Obeid accepted that Rocco Triulcio did not suffer a loss in deciding not to proceed with the sale of the Mercedes. He said that he was nevertheless concerned about the further deterioration of the relationship between

Rocco Triulcio and Mr Fitzhenry because the Triulcio and Obeid families were planning to carry out a joint venture development near Mr Fitzhenry's home for which they needed Mr Fitzhenry's cooperation.

Moses Obeid claimed he told Rocco Triulcio: "Let's not ruffle feathers. I will take the responsibility of the car. It's my problem, I'll get rid of it, leave it with me". Moses Obeid said that Rocco Triulcio expected him to "resolve the problem". Moses Obeid said that he was in a "very awkward predicament" and "the circumstances were dire".

Moses Obeid was aware that Mr Roozendaal was looking for a car. He gave evidence that he considered Mr Roozendaal to be his friend. He telephoned him to find out if he had had any success in finding a vehicle. He said that the first contact he had with Mr Roozendaal about the Honda CR-V was on the day that the cheque dated 18 June 2007 for \$44,800 was paid to Mr Fitzhenry. He told Mr Roozendaal that there was a car available if he agreed to take it immediately. He said, "I had to find a solution and Eric was my saviour". He said that he had to convince Mr Roozendaal that it was a new car worth around \$38,000. He said that Mr Fitzhenry had told him that the Honda CR-V had cost \$38,000.

After negotiations over the price, Mr Roozendaal agreed that he would purchase the car for \$34,000. Moses Obeid said that he told Mr Roozendaal not to worry about the money or the paperwork and to pick up the vehicle from Mr Fitzhenry's work premises in a day or so. He said that this deal with Mr Roozendaal was finalised on 18 June 2007, the same day that Rocco Triulcio had telephoned him "in a rage". He rang Rocco Triulcio and told him that the Honda CR-V had been sold and he also told Mr Fitzhenry that the Honda CR-V had been sold. He believed that the next day he told Mr Achie, the accountant who looked after the affairs of the Obeid family, that he had sold the car to Mr Roozendaal for \$34,000. He said that he did not speak with Paul Obeid.

Moses Obeid said that he knew nothing about the transfer of registration between Mrs Re, KF Goodman Pty Ltd and finally to Ms Roozendaal. He denied instructing Mr Fitzhenry to arrange these transfers of registration.

When Moses Obeid was first asked by the Commission to give his version of events, he was not shown the Peter Warren Automotive file, which contained the documents previously outlined that clearly showed that the Honda CR-V was originally intended to be purchased in Ms Roozendaal's name. When shown the Peter Warren Automotive file, Moses Obeid claimed that he was "certain" that the entire file had been forged or doctored by Mr Fitzhenry and his "accomplices at Peter Warren". He said Mr Fitzhenry "has a set of accomplices that he can get to do things for him". He gave evidence that Mr Fitzhenry

had told a number of people that he would "destroy the Obeids". Moses Obeid was also shown the Application for Registration lodged with the RTA in Mrs Re's name. This application also had the name "Amanda Rosendale" whited-out and replaced with Mrs Re's name. He could provide no explanation for this.

Moses Obeid then gave a second version of events at the public inquiry. He claimed that there were in fact two Honda CR-Vs ordered by Mr Fitzhenry – one for Mr Roozendaal and one for Rocco Triulcio. He said that, at the end of May 2007, he told Mr Fitzhenry that Mr Roozendaal wanted a car but only had \$31,000 to spend and that he wanted an upgraded version from a 2001 Honda CR-V. According to Moses Obeid, Mr Fitzhenry told him that Mr Roozendaal would not be able to find a new Honda CR-V for \$31,000 but thought that he may be able to obtain a demonstrator vehicle around that price. He said that Mr Fitzhenry was still looking for an appropriate vehicle for Mr Roozendaal at the time Rocco Triulcio's Honda CR-V became available. Moses Obeid had made no mention of a second Honda CR-V in his earlier evidence.

He also could not explain why the Peter Warren Automotive file showed that there was only one Honda CR-V, originally intended to be purchased in Ms Roozendaal's name but later changed to Mrs Re's name. He told the Commission: "I'm suggesting that it's possible there's some confusion maybe. I have no answer as to why these documents present themselves as they do. I have no answer. I didn't deal with them so I can't answer that. I had, I was not involved in registering cars, I was not involved in paying anyone any money. I simply introduced one person to another person... I think that there's ultimately a sinister explanation for it".

Moses Obeid was also asked why the financial transactions relating to the Honda CR-V were recorded in the Obeid Corporation's general ledger account as a loan from Challenge Property Investments to the Obeid Corporation. Moses Obeid said he was not involved in recording the payments in the books and that his brother Paul Obeid and brother-in-law, Mr Achie, were responsible for those entries.

## Rosario Triulcio's evidence

Rosario Triulcio gave evidence that he and his brother, Rocco Triulcio, had agreed to purchase a car for their sister, Mrs Re. He said that his brother had told him that Mr Fitzhenry was arranging the purchase of the vehicle. Rocco Triulcio told him that he was taking paperwork relating to the purchase of the Honda CR-V to their sister. He said that he did not hear anything further about his dealings with Mr Fitzhenry until he was asked by his brother to draw a cheque in favour of Mr Fitzhenry to purchase the vehicle.

After that, Rocco Triulcio told him that they had not received the right price for the Mercedes and that, “the deal had fallen through ... I told him to on-sell the car [the Honda CR-V]. He wasn’t too concerned about it, he said, if there’s a loss, there’s a loss. I was concerned about it and I went down to see Mr Paul Obeid”.

He said that, on or around 20 June 2007, he attended the Obeids’ offices with the intention of speaking to Moses Obeid but, because he was not there, he spoke with Paul Obeid.

Rosario Triulcio struggled to explain why he thought that Moses Obeid was responsible for Rocco Triulcio’s dealings with Mr Fitzhenry. He said that he believed that Moses Obeid was involved because he was “at the meeting with my brother at the beginning” and because he was Mr Fitzhenry’s friend.

He said he explained to Paul Obeid that Mr Fitzhenry had given them the “wrong price” on the Mercedes and that, while they no longer wanted the Honda CR-V, he did not want to lose any money on the Honda CR-V transaction.

He had difficulty explaining why he thought Challenge Property Investments would suffer a loss on the Honda CR-V, only saying that he “felt that was going to happen” because the cheque had not been returned to them. According to Rosario Triulcio, Paul Obeid said that, “...if there’s any difference, he’d fix it”. He said he believed that a day or so after this conversation, a payment of \$10,800 was transferred into the Challenge Property Investments’ bank account “out of the blue”. He said that he did not know how the figure of \$10,800 was agreed upon.

Rosario Triulcio was responsible for maintaining the books of account of Challenge Property Investments and was questioned about the recording of the relevant financial transactions. He could not explain why all the entries in the Challenge Property Investments’ ledger relating to the Honda CR-V were recorded in the Obeid Corporation’s loan account. He claimed that it was “just an easy way to balance it out”. He denied that Challenge Property Investments had made a loan to the Obeid Corporation to purchase the Honda CR-V, which was then ultimately repaid by two payments (\$10,800 from the Obeid Corporation on 20 June 2007 and \$34,000 from KF Goodman Pty Ltd on 5 July 2007).

## Paul Obeid’s evidence

Paul Obeid said that the first time he heard anything about the black Honda CR-V was when Rosario Triulcio attended the Obeids’ office. He said, “...Ross basically told me that his brother had a fall out over a car transaction with Peter Fitzhenry and the nature of the fall out was over Rocco’s car, the trade-in value on Rocco’s car and he was upset, not overly upset but yeah, he was upset”.

According to Paul Obeid, Rosario Triulcio asked him to guarantee that the Triulcio family would be repaid the full amount paid for the Honda CR-V, being \$44,800. He could not explain why Rosario Triulcio had approached him when he was not involved in the transaction in any way whatsoever. He recalled that Rosario Triulcio was upset because he felt that his brother was “going to be taken advantage of”. He could not recall the details of Rosario Triulcio’s complaint but recalled that he was upset about the “trade-in value”.

Paul Obeid was asked why the Obeid family would have to cover any loss when, on his version of events, the Obeid family had nothing to do with the transaction. In response he stated, “We go back 25, 23 years, Mr Rocco Triulcio and myself, we’ve formed a very, very close friendship, it’s a family friendship over many years. We have a number of business interests together at that time and you know, the way we usually see it is their problem is our problem and our problem is their problem and that’s the way we treat each other”.

He was unable to provide another example of an occasion where the Triulcio family had made a poor deal and the Obeid family had covered the loss. He maintained that he agreed to cover any loss incurred by the Triulcio family because he did not want the relationship between the two families to break down.

Paul Obeid told the Commission that, later that day, he telephoned Moses Obeid to clarify whether the Triulcio family could get their money back and asked him why the Triulcio family did not want to take possession of the car. Moses Obeid told him that the only way for the Triulcio family to get their money back was for the car to be sold. Moses Obeid told him that he had already found a purchaser – Mr Roozendaal. He said that Moses Obeid told him that Mr Roozendaal could afford to pay only \$34,000 for the Honda CR-V. He claimed that Moses Obeid told him that there was a need to sell the car quickly, otherwise Mr Fitzhenry was likely to sell the Honda CR-V in a “fire sale” to one of his friends. By this stage, of course, Rocco Triulcio had, on his evidence, already paid Mr Fitzhenry for the Honda CR-V so there could be no question of Mr Fitzhenry selling it either in a fire sale or otherwise.

Paul Obeid said that after the phone conversation with Moses Obeid, he made a “commercial decision” to pay \$10,800 to the Triulcio family to cover their loss. He said that he was “pretty sure” that on the same day he instructed Mr Achie to pay the money to Challenge Property Investments. Paul Obeid said that he had a discussion with Mr Achie about how the money would be paid to Challenge Property Investments and he said that, because the Obeid Corporation had agreed to carry



the loss, they decided that it would be best to treat the payment as a repayment of a loan.

Paul Obeid said he and Mr Archie made the entry “repay loan – moses [sic] car deal (not to come off balance still owe \$200,000)” because Moses Obeid “was involved in the 34,000 getting Eric to buy it for 34”. Paul Obeid said, “My intent was clear, I was repaying, I was actually covering a loss, I accepted the cover of the loss to meet the difference for the Triulcios so they weren’t out of pocket and it was to keep harmony amongst all concerned and whether I made an error in the way I’ve described it, well, if you say I accept it might have been incorrectly typed in”.

He denied that the Obeid and Triulcio families were involved in an arrangement to try to provide a clean provenance for the car so that it could be passed to Mr Roozendaal as a favour. He denied that the entries were recorded in this way because they were, in fact, repayments of loans.

### Mr Archie's evidence

Mr Archie has been employed by the Obeid Corporation as a financial controller for about 12 years. Mr Archie testified that Paul Obeid had instructed him to pay Challenge Property Investments \$10,800 from the Obeid Corporation account. He testified that Paul Obeid explained to him that, “Ross and Rocco were upset about a certain deal that Moses was involved in and that he [Paul Obeid] would pay the difference”. On the same day, 20 June 2007, he was also instructed by Rocco Triulcio to make a payment to Challenge Property Investments.

Mr Archie was questioned about the accounting records, which show that the transactions relating to the Honda CR-V were recorded as loans to the Obeid Corporation from Challenge Property Investments. When asked about the “repay loan” notation on the Obeid Family Trust Number 1 remittance advice relating to the \$10,800 payment of 20 June 2007, Mr Archie unsurprisingly agreed that the term “repay loan” meant that a loan was being repaid.

Mr Archie said he was instructed by Paul Obeid to use those words to describe the transaction in the Obeid Corporation accounting records. Mr Archie presumed that Paul Obeid had told him that the payment related to a loan being repaid to Challenge Property Investments.

### Mrs Re's evidence

Mrs Re said that, in 2007, her brothers had agreed to purchase a car for her. She told the Commission: “We talked about it for, oh, for ages, we talked about it for ages and yeah, that was it”. She said that she did not specifically request a Honda CR-V. She recalled that her brothers were going to purchase a Honda CR-V for her, although she

could not remember discussing the colour of the vehicle with them. She said that Rosario Triulcio had in fact shown her brochures about a number of different cars but she did not specify the make, colour or upholstery of the vehicle because she was not comfortable with her brothers buying a car for her.

She gave evidence that her brother, Rocco Triulcio, came to her work with paperwork relating to the Honda CR-V. She said that she signed one paper – a contract for the purchase of the vehicle. She also gave evidence that she received a telephone call from Rocco Triulcio, asking her to fax over her driver’s licence because they intended to buy the Honda CR-V in her name. She said that within days of signing the contract, the deal collapsed.

She was shown copies of the Peter Warren Automotive documents, including the various contracts and the Application for Registration of the Honda CR-V, which were purportedly signed by her. She said that the signatures on the various documents were not hers.

She said that as far as she was concerned she never owned the Honda CR-V. She never saw the vehicle. She never went to Peter Warren Automotive. She said that she never spoke with Mr Fitzhenry or Mr Goodman. She also said that she had never met Moses Obeid or Mr Roozendaal.

### Edward Obeid Sr's evidence

Edward Obeid Sr gave evidence that Mr Roozendaal came to see him in his parliamentary office and told him about his wife’s car accident. By chance, Moses Obeid was in his office at the same time and Edward Obeid Sr suggested that Mr Roozendaal speak with Moses Obeid because he had a friend who owned a smash repair company; this friend was Mr Fitzhenry.

He said that he did not hear anything further about the incident until an article by journalist Kate McClymont was published in the *Sydney Morning Herald* in November 2011 about the acquisition of the Honda CR-V for Mr Roozendaal. Edward Obeid Sr said that Moses Obeid told him that the Obeid family had made a payment to cover the shortfall “to keep Rocco and his brother happy”. He said that he did not ask Moses Obeid further questions about the transaction.

## Resolution of different versions and findings on this issue

Mr Fitzhenry, by his own admission, had a disagreement with the Obeid family. During this segment of the public inquiry, he claimed the disagreement was with Edward Obeid Sr and that he had not had any falling out with Moses Obeid. During another segment of the public inquiry (Operation Jasper), however, he said his falling out was not

with Edward Obeid Sr but with Moses Obeid. It is difficult to discern a sinister reason for his differing testimony on this issue. Edward Obeid Sr and Moses Obeid were both involved in Operation Indus and Operation Jasper and there appears to be no rational basis, grounded on dishonesty, that would cause Mr Fitzhenry to wish to attribute his disagreement as being with Edward Obeid Sr in Operation Indus and Moses Obeid in Operation Jasper. Nevertheless, this inconsistency does cast some doubt on the reliability of Mr Fitzhenry's evidence.

There were also inconsistencies between the evidence given by Mr Fitzhenry and Mr Goodman. The most important of these concerned Mr Goodman's evidence that Mr Fitzhenry had told him what details were to be inserted into the various registration forms involving the registration of the vehicle in the name of Ms Roozendaal. Mr Fitzhenry said that, after receiving the initial request from Moses Obeid, he had no involvement in transferring the registration of the vehicle. Mr Goodman's evidence is preferred in this regard. At that time, Mr Fitzhenry and Mr Goodman were extremely close and Mr Fitzhenry was the conduit for providing instructions to Mr Goodman in every other aspect of the transaction. The Commission is satisfied that Mr Fitzhenry provided instructions to Mr Goodman about the transfers of registration as well. As some of the information in the registration forms was inaccurate, as outlined previously in this report, this is questionable conduct on the part of Mr Fitzhenry or Mr Goodman or both.

All these matters require the Commission to treat the evidence of Mr Fitzhenry and Mr Goodman with some caution, and the Commission has done so.

Mr Fitzhenry denied that he ever carried out work on Rocco Triulcio's BMW. He accepted that he provided a quote for work to be carried out on a BMW for Rocco Triulcio (as reflected in a notebook entry) but said that this quote was not accepted. Rocco Triulcio sought to contradict this evidence by producing a two-page document. The first page was a copy of a receipt dated 28 August 2007 for \$1,400 from Peter J Fitzhenry Coach Painting for work carried out on the BMW (for wheels and other damage). The second page was a bank receipt relating to an internet payment made from "Challenge" to Mr Fitzhenry's bank account in the amount of \$1,400 on 8 October 2007. Rocco Triulcio said that this document related to work carried out on his BMW in June 2007 but that Mr Fitzhenry had not given him the receipt until late August 2007. He said that he picked up the document from Mr Fitzhenry's workshop but did not pay for the work until 8 October 2007.

The Commission accepts that work was carried out by Mr Fitzhenry's business on Rocco Triulcio's BMW but, on the basis of the documents produced by Rocco Triulcio, that

work took place in August, not June 2007. In any case, this issue is of little significance.

Despite the matters referred to above, the evidence given by Mr Goodman and Mr Fitzhenry was not shown to have been dishonest in any substantial respect.

Furthermore, the evidence of the two men was corroborated, in important respects, by Mr Fitzhenry's notes in his notebook, the registration papers and other documents found in Peter Warren Automotive's file, and the evidence of Mr Agostino.

The version recounted by Mr Fitzhenry, supported to the degree that it was by Mr Goodman and Mr Agostino, was largely a coherent and rational story. That is to be contrasted with the evidence of Moses Obeid and Paul Obeid and the Triulcio brothers, which was inherently implausible, illogical and riddled with contradictions, both internal and external. It was also, in significant respects, contradicted by cogent, independent documentary evidence. Each of these witnesses gave evidence in an unsatisfactory way. They often did not answer the questions asked of them, were evasive, gave vague or non-responsive replies, and generally did not seem to make any genuine attempt to give honest and accurate evidence.

The way in which the financial dealings were recorded in the books of account of the Obeid Corporation and Challenge Property Investments is fundamentally inconsistent with the evidence of Moses Obeid, Paul Obeid, Rocco Triulcio and Rosario Triulcio, as are the details of those transactions themselves. They are, however, consistent in important respects with the version of Mr Fitzhenry and Mr Goodman.

The Peter Warren Automotive file and the evidence of Mr Agostino, which the Commission accepts, is destructive of the versions of Moses Obeid, Paul Obeid, Rocco Triulcio and Rosario Triulcio. Those versions fail to explain why the Peter Warren Automotive file shows that the Honda CR-V was originally to be purchased in Ms Roozendaal's name. On any of those versions, the Peter Warren Automotive file should have been initially opened in the name of Mrs Re (not in the name of Ms Roozendaal).

The evidence that Rocco Triulcio had a falling out with Mr Fitzhenry because of the price offered for the sale of the Mercedes is implausible. By his own admission, the transactions were two separate transactions – one transaction for the sale of the Mercedes and the other for the purchase of the Honda CR-V. Rocco Triulcio agreed with the proposition put to him that the Honda CR-V was a suitable car at a suitable price. There was no need to on-sell the Honda CR-V at a loss, and no loss had been incurred on the Mercedes as it had not been sold. In any

event, Rocco Triulcio could have taken the Mercedes to another dealer to be sold or made other arrangements to sell the Mercedes for the price he wanted.

Rocco Triulcio claimed that he asked Mr Fitzhenry to find a vehicle for his sister, but he did not provide Mr Fitzhenry with the make, model or price range for the vehicle. When he was given a price by Mr Fitzhenry, he did not enquire about the market value of a similar vehicle. After he paid for the Honda CR-V by a cheque in the amount of \$44,800, he was not provided with, and did not ask for, a receipt, a contract or even the registration papers for the vehicle.

The documents Rocco Triulcio produced, which establish that work was carried out on his BMW by Mr Fitzhenry's business in August 2007, also cast serious doubt on his evidence that, in June 2007, the proposed transaction concerning the Mercedes caused a breakdown of relations between him and Mr Fitzhenry.

Moses Obeid was represented by eminent senior counsel of considerable experience who did not cross-examine any witness called by Counsel Assisting. Thus, the evidence of Mr Fitzhenry and Mr Goodman was not challenged by Moses Obeid. Plainly, this omission was the result of a forensic decision. The Commission infers that senior counsel was not able to obtain coherent instructions from Moses Obeid that, in accordance with a barrister's legal and ethical duties, he could put to these opposing witnesses. Having observed Moses Obeid in the witness box, this attitude was entirely justifiable and proper, and in the interests of Moses Obeid.

Moses Obeid gave inconsistent accounts of relevant events and altered his evidence in response to the documents that were shown to him in the witness box. For example, he initially gave evidence that, after the falling out between Mr Fitzhenry and Rocco Triulcio, a Honda CR-V intended for Mrs Re became available and was sold to the Roozendaals. When confronted with the Peter Warren Automotive file, he said that he had asked Mr Fitzhenry to source two Honda CR-Vs – one for Rocco Triulcio and one for Mr Roozendaal.

Moses Obeid said that the Peter Warren Automotive file was a forgery or had been doctored at the request of Mr Fitzhenry. Apart from issues relating to some of the signatures purporting to be Mrs Re's (dealt with below) there was nothing whatever to substantiate such claims.

While Moses Obeid said Rocco Triulcio asked Mr Fitzhenry to source a Honda CR-V for his sister, Rocco Triulcio said it was Mr Fitzhenry's idea to acquire such a vehicle. While Moses Obeid said he told Rocco Triulcio that he had sold the Honda CR-V on 18 June 2007, Rocco Triulcio said he did not find out that the Honda CR-V had been sold until the \$34,000 payment was made by Mr Goodman on about 5 July 2007. Importantly, Rocco Triulcio did not state that Moses Obeid was at any stage closely involved in the

transaction or was responsible for on-selling the Honda CR-V. While Moses Obeid said that the relationship between Rocco Triulcio and Mr Fitzhenry deteriorated on the day that the cheque for the Honda CR-V was handed over, Rocco Triulcio gave evidence that the relationship deteriorated a day or so after the cheque was handed over. The Commission does not accept Moses Obeid's evidence that he was forced into a position where he had to sell the Honda CR-V on Rocco Triulcio's behalf. On his own evidence, he had had little involvement in the transaction up to that point.

Moses Obeid's evidence that he was coincidentally able to find a purchaser who wanted an identical Honda CR-V (a black Honda CR-V Sports with beige leather interior) on the same day (18 June 2007) that Rocco Triulcio and Mr Fitzhenry had a falling out is inherently implausible and is rejected. It is also inconsistent with Mr Roozendaal's evidence that he told Moses Obeid that he wanted a specific vehicle – a black Honda CR-V – and that that particular vehicle was thereafter arranged for him.

Rosario Triulcio's testimony that he approached the Obeid family to cover the loss is not supported by his own brother's evidence. According to Rocco Triulcio, he dealt directly with Mr Fitzhenry, not Moses Obeid. Rosario Triulcio's evidence that he went to the Obeid family office on 20 June 2007 demanding restitution for the loss in respect of the Honda CR-V is inconsistent with the evidence given by Moses Obeid and Rocco Triulcio that the problem had already been resolved by that stage. By that stage, Mr Roozendaal had already (on 18 June 2007) taken out a cover note for insurance on the Honda CR-V and (on 19 June 2007) had collected the car. The Commission does not accept the evidence of Rosario Triulcio.

The Commission rejects Paul Obeid's evidence that the Obeid family had been forced into a position in which they had to indemnify the Triulcio family for their loss. Paul Obeid was unable to provide a coherent and believable basis as to why the entries in respect of the Honda CR-V were recorded against a liability account. The Commission does not accept the evidence of Paul Obeid.

Mr Archie's evidence is basically to the effect that the financial records speak for themselves and that the \$10,800 payment on 20 June 2007 was, in fact, a repayment of a loan by the Obeid Corporation to Challenge Property Investments. The Commission accepts this evidence.

For the reasons set out above, the Commission accepts the version given by Mr Fitzhenry and Mr Goodman about the transactions concerning the Honda CR-V and rejects those given by Moses Obeid, Paul Obeid, Rocco Triulcio and Rosario Triulcio. The Commission is satisfied that, consistent with the evidence of Mr Fitzhenry and Mr Goodman, the Honda CR-V was originally intended for Ms Roozendaal and not Mrs Re.

## Ancillary issue: the Mrs Re signatures

During the course of the Commission's investigation, suspicions arose about a number of signatures on the Peter Warren Automotive documents and the Application for Registration that were purportedly in Mrs Re's handwriting.

Ms Moussa, a handwriting expert, compared these signatures to a sample of Mrs Re's genuine signatures. Ms Moussa concluded that there was "no evidence to support a proposition" that the signature on the Peter Warren Automotive New Vehicle Delivery Checklist dated 15 June 2007 was signed by Mrs Re. Furthermore, she stated that it was "unlikely" that the signatures on the Peter Warren Automotive contracts dated 18 June 2007 (at 11.56 am) and 19 June 2007 (at 3.46 pm) were signed by her. It was also "unlikely" that Mrs Re signed the Application for Registration of the Honda CR-V.

A number of witnesses who potentially had access to the Peter Warren Automotive documents were asked whether they had signed Mrs Re's name.

Mr Agostino told the Commission that the Peter Warren Automotive contracts were not necessarily signed on the Peter Warren Automotive premises. He said that the contracts could be taken and signed off the premises. He denied signing the contracts in Mrs Re's name.

Mr Nguyen, a Peter Warren Automotive employee, said that he signed the final version of the Peter Warren Automotive contract dated 19 June 2007 on behalf of Peter Warren Automotive but did not witness Mrs Re's signature. He also denied signing Mrs Re's name.

Mr Fitzhenry was not questioned as to whether he signed Mrs Re's name, but he seems to have had no opportunity to do so. Mr Goodman denied signing Mrs Re's name on the contracts. He could not remember receiving any such paperwork from Peter Warren Automotive.

Mrs Re was shown the contracts that she had purportedly signed. She said that she recalled signing a piece of paper relating to the purchase of the Honda CR-V. Her brother, Rocco Triulcio, brought the paper to her at her workplace and she signed it there. She recalled receiving a phone call from Rocco Triulcio asking her to fax over her driver's licence so that the Honda CR-V could be purchased in her name. She could not be "100 per cent" certain that she signed the contracts from the Peter Warren Automotive file that were shown to her. She flatly denied signing some of the Peter Warren Automotive documents that purportedly had her signature on them. Specifically, she denied signing the New Vehicle Delivery Checklist dated 15 June 2007. She also denied signing the Application for Registration for the Honda CR-V. Mrs Re said that she

knew nothing about these documents and was unable to explain why someone had signed her name on them.

Rocco Triulcio denied signing his sister's name on the Peter Warren Automotive contracts. He said Mr Fitzhenry gave him a contract relating to the Honda CR-V, which he took to his sister's workplace for her signature. He was shown copies of the Peter Warren Automotive contracts that were purportedly signed by his sister. He could not recall whether any of these was the specific document that he took for his sister to sign. He denied signing her name or having any knowledge of anybody else signing her name.

Moses Obeid asserted that the entire Peter Warren Automotive file was a forgery arranged by Mr Fitzhenry. There was no evidence to support this fanciful allegation.

The Commission is satisfied that the signatures that Mrs Re denied providing were not hers. There is insufficient evidence before the Commission to establish the identity of the person who signed Mrs Re's name on the relevant documents.



## Chapter 3: The involvement of Mr Roozendaal

There is no dispute that Mr Roozendaal picked up the Honda CR-V from Mr Fitzhenry's work premises on 19 June 2007 or that Mr Roozendaal paid \$34,000 for the Honda CR-V, believing that the approximate value of the vehicle was \$43,000.

Mr Roozendaal testified that he took delivery of the Honda CR-V from Mr Fitzhenry's work premises at "around lunchtime, early afternoon" on 19 June 2007. Mr Roozendaal did not offer payment or sign any contract for the purchase of the vehicle. He said that he did not pay for the vehicle at the time of collection because he did not have the funds available. He said that the car was "quite new" and agreed that the vehicle smelt like a new car. He was unable to recall how many kilometres were on the odometer.

He said that he believed that the car had been registered in someone else's name and driven by someone else because there were registration papers in the glove box of the car. He could not recall the name written on the registration papers: "I don't recall, it could have been this Nata Re person". He said he had a vague memory of seeing the suburb in which Mrs Re resides written on the paperwork. He said he "glanced" at the papers and did not read them. He could not recall whether he discussed this with Moses Obeid. He was unable to recall what happened to the registration papers.

After this segment of the public inquiry had concluded, Mr Roozendaal inspected the glove box of the Honda CR-V and located the Owner's Warranty and Service Manual, but no registration papers. He provided the documents he located to the Commission. In the front cover of the manual, Mrs Re is noted as the vehicle's owner. A delivery date of 15 June 2007 is noted, which is consistent with the date on which the tax invoice in the name of Mrs Re was issued by Peter Warren Automotive.

Mr Roozendaal said that he was instructed by either Mr Fitzhenry or Moses Obeid to pay \$34,000 to a bank account held by KF Goodman Pty Ltd and did so on 29 June 2007. He said that there was a delay in payment because he was waiting for sufficient funds to become available from his parliamentary monthly salary payment.

The Commission accepts his evidence in this regard.

He said that the only document he received after paying for the vehicle was the Form 4 warranty document. He said that he believed that this document arrived by post sometime after 29 June 2007. He claimed that he did not pay much attention to the Form 4 document. He was not concerned that a number of details on the Form 4 document were incorrect. Mr Roozendaal said he had no obligation to verify the truth of the contents of the document because it was filled out by Mr Goodman. He gave evidence that he "didn't examine the form [the Form 4 document] closely whatsoever but I felt no need to why would I bother, I had the car and I paid for it and that was just basically the receipt".

Mr Roozendaal was unable to explain why the car registration had been transferred from Mrs Re to KF Goodman Pty Ltd and then to Ms Roozendaal. He agreed that when these transfers of registration took place, Ms Roozendaal was already in possession of the Honda CR-V. He said that the delay in transferring the registration between 18 or 19 June and 2 August 2007 was due to his "slackness". He said that his wife, in lodging her Application for Transfer of Registration with the RTA, simply carried through Mr Goodman's errors.

Mr Roozendaal said that he took out insurance for the vehicle on or around 19 June 2007 and advised the insurance company that the purchase price of the vehicle was \$43,000. He said that he insured the vehicle for that amount because he believed that represented the replacement value of the car.

The records provided by the insurance company show that, on 18 June 2007, a cover note was provided to either Mr or Ms Roozendaal for a comprehensive insurance policy for the Honda CR-V. The insurance company was advised at that time that the purchase price of the vehicle was \$42,000 and the quote provided was based on this price. The date of purchase was given as 18 June 2007 and the insured persons were Mr and Ms Roozendaal. Interim cover for a two-week period was issued for the vehicle. On 2 July 2007, Mr Roozendaal contacted AAMI (the insurance company) and commenced the policy. On this date, he advised AAMI that the purchase price of the vehicle was \$43,000.

There are other aspects of Mr Roozendaal's testimony that call for comment. In particular, there is the delay in registering the Honda CR-V. The vehicle was not registered in Ms Roozendaal's name until 2 August 2007, although she took possession of the car on 19 June 2007. When Ms Roozendaal finally signed and submitted the registration papers in relation to the Honda CR-V with the RTA, the papers show that the car had been owned by KF Goodman Pty Ltd. Neither Mr Fitzhenry (who Mr Roozendaal believed was responsible for purchasing the vehicle) nor Mrs Re was named as the previous owner.

It has been difficult for the Commission to uncover the full truth about Mr Roozendaal's involvement in, and knowledge of, the transactions that led to the purchase of this car on his behalf. This is because Mr Roozendaal allowed Moses Obeid to play a major role in organising the purchase of the car, and dealt almost exclusively with Moses Obeid in respect of the purchase. The question of what Mr Roozendaal knew or was told about the purchase, therefore, turns to a large degree on what he was told by Moses Obeid. Moses Obeid was not a truthful witness, and his evidence could not be relied upon for any purpose, including deciding what he may or may not have told Mr Roozendaal.

In the circumstances, there is insufficient evidence to support a finding that Mr Roozendaal knew about the financial transactions that were undertaken between the Triulcios and the Obeids to obtain the car, that he had any knowledge that the Triulcio brothers had been involved in the purchase of the Honda CR-V or that Mrs Re and Mr Goodman had been interposed as prior registered owners of the vehicle, despite Mrs Re never having seen, or had possession of, the vehicle.

It is clear on the evidence that Mr Roozendaal knew that he was obtaining an almost new car at a substantial discount through Moses Obeid's contacts. It is also clear that he knew that he was allowed to take the car away from Mr Fitzhenry's premises without having signed any documents or paid any money because Moses Obeid was a friend of Mr Fitzhenry's and had made such arrangements. There is, however, insufficient evidence to support a finding that Mr Roozendaal knew that the Obeid Corporation had paid

\$10,800 to Challenge Property Investments to make up the shortfall of the price of the vehicle, and that he was acquiring the vehicle effectively at a discount of \$10,800.

Although the Application for Transfer of Registration that was ultimately submitted to the RTA by Ms Roozendaal contained a number of inaccuracies (as has been dealt with above), Mr Roozendaal's evidence that his wife merely copied the Form 4 document completed by Mr Goodman is not outside the realms of possibility.

### Ms Roozendaal's evidence

Ms Roozendaal told the Commission that, after the 2001 Honda CR-V was written-off, she and her husband started looking for a replacement vehicle. She agreed that they decided to replace the vehicle with a Honda CR-V Sports, preferably black in colour with a beige interior. She said that her husband brought the 2007 model Honda CR-V home one day and that she did not know where he got the vehicle from. She said that the car "seemed new". She said Mr Roozendaal told her that he paid \$34,000 for the vehicle. She was not aware that the Obeid family was involved in the transaction.

Ms Roozendaal was shown a copy of the Application for Transfer of Registration dated 2 August 2007 that she submitted to the RTA in order to register the vehicle. She agreed that it was in her handwriting and that her signature was on the application. She said that she received all the information to complete the form from Mr Roozendaal. She said that she could not recall signing the application. She could not explain why the date of purchase was stated as 26 July 2007, even though they had had possession of the vehicle from 19 June 2007. She could also not recall why there was a delay between when the car was collected on 19 June 2007 and when the car was registered in her name on 2 August 2007. She told the Commission that, "It could have just been a lapse in organising it, people get busy and they don't arrange the registration as soon as they should". She said that she "certainly didn't consciously misrepresent anything [to the RTA]".

The Commission accepts Ms Roozendaal's evidence that Mr Roozendaal was responsible for arranging the acquisition of the Honda CR-V and that, while she ultimately signed the Application for Transfer of Registration on 2 August 2007, her husband provided her with all the relevant information and she relied on him to do so.

## Did Moses Obeid provide Mr Roozendaal with a benefit?

The Commission accepts Mr Fitzhenry's evidence that:

- (a) Moses Obeid asked him to obtain a Honda CR-V for Mr Roozendaal
- (b) after Mr Goodman had told him that he (Mr Goodman) had found a vehicle as required, he (Mr Fitzhenry) telephoned Moses Obeid and informed him of all the relevant details, such as car, price, availability, delivery date and inclusion of extras
- (c) about a day after that, Moses Obeid came back to Mr Fitzhenry and gave him approval to obtain the car. The Commission is satisfied that the price that Mr Fitzhenry quoted to Moses Obeid was \$44,800.

The Commission accepts Mr Roozendaal's evidence that Moses Obeid arranged the acquisition of the Honda CR-V for him.

When on 20 June 2007 the \$10,800 was paid by the Obeid Corporation to Challenge Property Investments, the Obeid Corporation MYOB account recorded the payment as being "repay loan – moses [sic] car deal". During his evidence, Moses Obeid claimed that he promised Rocco Triulcio "whatever your shortfall is... you know it will be wiped... it'll settle in the wash". As stated in previous chapters, the Commission rejects the Obeid and Triulcio versions that the \$10,800 payment to Challenge Property Investments was made in order to cover any shortfall suffered by the Triulcios. The Commission is satisfied that the \$10,800 payment was arranged by Moses Obeid in order to provide a benefit to Mr Roozendaal.

The Commission finds:

- (a) Moses Obeid agreed with Mr Fitzhenry that Mr Fitzhenry should find a Honda CR-V at a purchase price of \$44,800 for Mr Roozendaal and Moses Obeid would ensure that Mr Fitzhenry would be paid that sum of \$44,800
- (b) Moses Obeid agreed with Mr Roozendaal that the latter would pay \$34,000 for the vehicle
- (c) Moses Obeid took steps to have the transaction (which he had arranged) perfected according to the agreed terms
- (d) Moses Obeid arranged for the Obeid Corporation to pay \$10,800 towards the purchase price in order to provide a benefit to Mr Roozendaal.

Mr Goodman testified that the approximate retail price for the Honda CR-V was \$44,000. He said that he was able to obtain a cheaper price through his contacts in the car industry. Mr Roozendaal gave evidence that he knew that the market price for such a vehicle was about \$43,000. He knew this because he had attended some car dealerships and had conducted searches on the internet. When he arranged insurance for the vehicle, he told AAMI (the insurance company) that the purchase price of the vehicle was \$43,000. The Commission is satisfied that the retail price for such a vehicle was approximately \$44,000.

Mr Roozendaal paid \$34,000 for the vehicle. Therefore, he obtained a benefit, through the actions of Moses Obeid, of \$10,800. The Commission finds that Moses Obeid at all relevant times intended that Mr Roozendaal should receive such a benefit and procured that benefit for him.



## Chapter 4: The alleged favours

This chapter examines the allegation that Mr Roozendaal had performed or would perform favours in relation to the exercise of his public official functions for Edward Obeid Sr or members of the Obeid family in return for receipt of a benefit, being a discount on the Honda CR-V. It also examines the allegation that Moses Obeid provided such a benefit as a reward for Mr Roozendaal having carried out his public official functions in a manner favourable to Edward Obeid Sr or members of his family, or as an inducement for Mr Roozendaal to exercise his public official functions in the future in a manner favourable to any Obeid business interest.

### Mr Fitzhenry's evidence

As detailed in chapter 1, Mr Fitzhenry gave evidence that Moses Obeid asked him to acquire a Honda CR-V for Mr Roozendaal because of favours he (Mr Roozendaal) had carried out for Moses Obeid's father, Edward Obeid Sr. Mr Fitzhenry did not know what those favours were. Moses Obeid denied having had such a conversation with Mr Fitzhenry. Edward Obeid Sr denied that he had received any such favours.

Mr Fitzhenry's evidence of the conversation with Moses Obeid, in which Moses Obeid asked him to acquire a car for Mr Roozendaal because "Eric had done a few favours for dad", is, of course, hearsay. As such, it would be admissible against Moses Obeid if treated as an admission by him against interest about matters in respect of which he was likely to have direct knowledge, but not against other parties. That does not mean that it would not be possible for the Commission to base a finding of corrupt conduct on such evidence. But the Commission has identified other concerns about Mr Fitzhenry's reliability as a witness. These concerns relate to relatively minor issues but, coupled with the hearsay nature of the crucial evidence, they render that evidence insufficiently reliable for a finding to be made that Moses Obeid arranged for Mr Roozendaal to be provided with a motor vehicle at a discount for the purpose of repaying him for favours Mr Roozendaal had done for Edward Obeid Sr.

### Mr Roozendaal's position in the NSW Ministry

During the course of the public inquiry, the Commission examined Mr Roozendaal's role in the NSW Ministry and the Obeid family's business interests around the time that the Honda CR-V was acquired. The Commission sought to determine if Mr Roozendaal used his position, or was able to use his position, in a way that was beneficial to members of the Obeid family.

In June 2004, Mr Roozendaal entered the Upper House of the NSW Parliament. Between August 2005 and February 2006, he became minister for ports and waterways. Between February 2006 and September 2008, Mr Roozendaal was minister for roads. Between April 2007 and September 2008, Mr Roozendaal was minister for commerce. Between November 2009 and March 2011, he was minister for state development, which became minister for state and regional development. Between September 2008 and March 2011, Mr Roozendaal was the NSW treasurer. Between September 2010 and March 2011, he was re-appointed as minister for ports and waterways. At the time the Honda CR-V was acquired, Mr Roozendaal was minister for roads and minister for commerce.

Edward Obeid Sr denied that that Mr Roozendaal had carried out favours, or was in a position to carry out favours, for him or members of his family. Edward Obeid Sr initially claimed that, as a minister, Mr Roozendaal was bound by the advice of his department, although he later retracted this evidence and admitted that Mr Roozendaal was not so bound. Edward Obeid Sr also agreed, after much equivocation, that individuals seeking certain actions or decisions could make representations to a minister, although he claimed that these approaches should take place only in the presence of the department or the minister's staff.

## The Obeid business interests

The Commission examined three Obeid business interests in respect of which Mr Roozendaal could potentially exert some influence. These were Streetscape Projects, Circular Quay leases and the Lake Cathie development.

### Streetscape Projects

Between February 2006 and September 2008, Mr Roozendaal was minister for roads. The RTA was an agency that fell within Mr Roozendaal's ministerial portfolio as minister for roads. In 2006 or 2007, the RTA advertised for expressions of interest for a contract for the installation of school zone flashing lights. Streetscape Projects submitted an expression of interest for the contract. Streetscape Projects was one of seven companies selected by the RTA to provide prototypes to the RTA for a period of time. Streetscape Projects was ultimately unsuccessful in obtaining the contract.

Moses Obeid is the chief executive officer of Streetscape Projects. He said that he could not recall speaking with Mr Roozendaal about the RTA contract, although he said that it was possible that he did because at the time, "he had a problem with the RTA and I thought that they were being unfair... My company had designed a specific product, a purpose-built product designed and we consider that that intellectual property was owned by us".

Moses Obeid then said he complained to Mr Roozendaal in Edward Obeid Sr's office, but Mr Roozendaal "didn't want to know about it and didn't want to do anything about it". He denied asking Mr Roozendaal for a favour but told Mr Roozendaal that the RTA was "a mob of mongrels" that "were trying to screw one of their suppliers [Streetscape Projects]". He said he was hoping that Mr Roozendaal would investigate the issue but he "didn't bite". He said that it was "probably inappropriate" to raise the issue with Mr Roozendaal at that time because Mr Roozendaal and his father were meeting about other matters.

During the public inquiry, reference was made to evidence given by Mr Roozendaal during a compulsory examination that Moses Obeid spoke to him about Streetscape Projects. He said that Moses Obeid said that Streetscape Projects would potentially "pitch" for the RTA contract. Mr Roozendaal agreed that Moses Obeid was, in effect, engaging in a form of lobbying in the hope that Mr Roozendaal would do something to make sure Moses Obeid's company got the contract. He also agreed that Moses Obeid approached him in the hope that he would do something to make sure he got the contract. He agreed that it was not unusual to be approached in such a way by a person whose company was interested in a government contract that was to be put out to tender.

At the public inquiry, Mr Roozendaal gave evidence that, on one occasion, he was approached by Moses Obeid in Edward Obeid Sr's office in relation to the RTA contract for the provision of flashing lights near schools. The RTA fell within Mr Roozendaal's portfolio as minister for roads, and the RTA was responsible for the administration of the contract. Moses Obeid complained to him that he felt the RTA was stealing the intellectual property of his poles. Mr Roozendaal said that he gave Moses Obeid the same treatment that he would give anybody else, by referring him back to Mr Roozendaal's staff or the agency. He said that it is normal practice for a complaint to be referred back to the agency and stated, "If someone writes to a Minister's office, phones a Minister's office, raises an issue directly with the Minister's office or a Minister, it is normal practice for that complaint to be referred back to the agency, under any of those circumstances". Mr Roozendaal conceded in evidence that, by referring Moses Obeid's complaint back to the agency, he was giving them an "implicit direction" to deal with the matter.

It is not clear from the evidence when, in relation to the acquisition of the Honda CR-V vehicle, Mr Roozendaal was approached by Moses Obeid about the RTA contract.

Mr Roozendaal said that he did nothing to assist Moses Obeid in his attempt to obtain the RTA contract. Mr Roozendaal said that, when he became aware that Streetscape Projects was expressing an interest in the contract, he requested that the RTA employ a probity auditor, "as an additional level of process... because I was concerned in the event that Streetscape were successful in getting a tender that the fact that it was related to Eddie Obeid, who was a senior minister in the government, that there could be media speculation so I thought it was appropriate to actually add a level of probity to that process".

He denied that, as minister for roads, he was in a position to do favours for Streetscape Projects. He said that the RTA operated at arm's length from the NSW Ministry "through a very strong process and I have no influence on that nor does my office".

There is no evidence to support a finding that Mr Roozendaal favoured Moses Obeid or Streetscape Projects. The evidence before the Commission establishes, however, that Moses Obeid directly approached Mr Roozendaal about a problem Streetscape Projects was having with the RTA, an agency under the control of Mr Roozendaal, who was at the time minister for roads. Moses Obeid also admitted that he approached Mr Roozendaal in the hope that he would investigate that issue further. This demonstrates that Moses Obeid believed that Mr Roozendaal may have been in a position as a minister to provide some assistance to him in respect of the problems Streetscape Projects was having with the RTA.

## The Circular Quay leases

Between August 2005 and February 2006, Mr Roozendaal was minister for ports and waterways. In September 2005, the Sydney Harbour Foreshore Authority (SHFA) was considering whether to terminate the leases of several leaseholders in Circular Quay and seek expressions of interest for the leases. Mr Roozendaal said that SHFA was an organisation over which he had responsibility as minister for ports and waterways. The Obeid family, in various ways, held financial interests in some of the leases.

Edward Obeid Sr gave evidence that he spoke with Mr Roozendaal on behalf of the leaseholders. He said that he raised the issue with Mr Roozendaal in his capacity as the chairperson of the Small Business Committee of the NSW Parliament. He spoke with Mr Roozendaal about “all the shops in Circular Quay under the Cahill Expressway and on the jetties and it was about them getting fair treatment by this Retail Tenancies Act that the Government had made a mess out of”.

He denied that he effectively lobbied Mr Roozendaal on behalf of the Obeid family, stating to the Commission that he was acting on behalf of all the leaseholders, “Because I believed strongly about the rights of the tenants, especially when they’ve cost them enormous monies of goodwill to get into a premises, that they should be given rights to continue on carrying out their business”. He said that he was asking Mr Roozendaal to allow the tenants “to continue on with their work, they’ve spent enormous monies there in renovating and upgrading their shops and they should be allowed to carry on with their business”. He wanted Mr Roozendaal to understand the concerns of the shopkeepers. He said that this conversation took place informally in his parliamentary office in the presence of other ministers and members of parliament although he could not remember who was in attendance.

Edward Obeid Sr was aware that his family held interests in certain leases at Circular Quay. He did not disclose this to Mr Roozendaal. He maintained that he was not acting in the interests of the Obeid family, but so that all the shopkeepers should get “fair treatment”.

He denied that he asked Mr Roozendaal to do anything specifically other than to treat the tenants fairly. He claimed that, if Mr Roozendaal acceded to his request, he was not doing a favour for the Obeid family but would be carrying out his ministerial duties. Edward Obeid Sr said that he wanted the leaseholders to be given certainty. He told the Commission: “By giving them their leases without arguing with them”. He said that he had “no real recollection of the exact decision” made by Mr Roozendaal.

Mr Roozendaal gave evidence that he had a vague recollection that, during his time as minister for ports and

waterways, there were issues surrounding the Circular Quay leases. He could not recall the debate on the issue in any great detail. He agreed that, at the time he became minister for ports and waterways, there was discussion about the potential for obtaining better terms if the Circular Quay leases on the foreshore were renegotiated. He was asked whether he declined the department’s recommendation that the Circular Quay tenancies be reopened under an expression of interest process. He said that he believed that the decision “bubbled on long after I’d been the Ports Minister...”. During the six-month period that Mr Roozendaal held the portfolio, he said that he did not make a decision about whether the leases should be terminated.

Mr Roozendaal said that Edward Obeid Sr had approached him and told him that he felt that the leaseholders in Circular Quay were being treated unfairly. He said that at no time did Edward Obeid Sr disclose that his family held a financial interest in the Circular Quay leases. He said that, if he had known that the Obeid family held a financial interest in the Circular Quay leases, he would not have continued their conversation. He said that he did not become aware of the Obeid family’s interest until he was contacted by journalist Linton Besser from the *Sydney Morning Herald*. The article Mr Besser wrote about this issue appeared in the *Sydney Morning Herald* in May 2012.

Mr Roozendaal said that he had no knowledge that any decision that he may have made to defer or delay any proposal for offering the leases to the public would potentially benefit the Obeid family in any way.

There was no evidence to contradict Mr Roozendaal’s evidence that he did not know that the Obeid family had an interest in the Circular Quay leases. Edward Obeid Sr gave evidence that he did not disclose to Mr Roozendaal that his family held a financial interest in the Circular Quay leases.

## Lake Cathie development

Edward Obeid Sr told the Commission that his family owns a property at Lake Cathie in the Port Macquarie area. He said that he did not know the property’s value but said that it could be worth \$10 million. His evidence was unclear as to whether he disclosed to Mr Roozendaal that his family owned a property at Lake Cathie.

Edward Obeid Sr said that, in 2007, he was the Labor Party committee member responsible for looking after the Port Macquarie area. He admitted to arranging a meeting between Mr Roozendaal, as minister for roads, and Robert Oakeshott, then a member of parliament responsible for the Port Macquarie area, about upgrading a part of the Pacific Highway. Edward Obeid Sr said that

this part of the Pacific Highway was some distance from the property owned by the Obeid family at Lake Cathie.

Paul Obeid gave evidence that the Obeid company, Milland Pty Ltd, owns a 42-acre property at Lake Cathie. The Obeid family is planning to develop the property. He agreed that the existing road to the Lake Cathie property, Ocean Road, would need to be upgraded if the development were to proceed. He denied that it would be helpful to be on friendly terms with the minister for roads in order to get such work approved.

Mr Roozendaal had no recollection of speaking with Edward Obeid Sr about roads in the Port Macquarie area. He conceded that he may have attended meetings with Mr Oakeshott and Edward Obeid Sr about upgrading roads in the Port Macquarie area. Mr Roozendaal had no knowledge that Edward Obeid Sr or any other member of the Obeid family held property interests in the Port Macquarie or Lake Cathie areas. He said that, if this fact had been disclosed to him, he would have discontinued the discussion.

The evidence on this topic is insufficient to support a finding that an upgrade of the part of the Pacific Highway that was the subject of discussions between Edward Obeid Sr, Mr Oakeshott and Mr Roozendaal would have assisted the Obeid family with the Lake Cathie development.

## Analysis of the evidence

The Commission is satisfied there is insufficient evidence to support a finding that Mr Roozendaal “had done a few favours” for Edward Obeid Sr, or any other member of the Obeid family, in his capacity as minister for roads, minister for ports and waterways or in any other public official capacity in return for the provision of a benefit. There is also no evidence that he was intending to show favour to Edward Obeid Sr or any member of his family in return for any benefit.

The evidence does not support a finding that Edward Obeid Sr was involved in the acquisition, or registration of, the Honda CR-V. Furthermore, the Commission is not satisfied that Edward Obeid Sr’s approach to Mr Roozendaal about the Circular Quay leases or the upgrading of the Pacific Highway was related to the acquisition of the Honda CR-V.

While there is no evidence to support a finding that the benefit provided by Moses Obeid to Mr Roozendaal was in return for favours carried out by Mr Roozendaal, the Commission also considered whether Moses Obeid provided Mr Roozendaal with a benefit as an inducement for Mr Roozendaal to exercise his public official functions in a manner favourable to Moses Obeid or Obeid family business interests.

The Commission has found that a benefit totalling \$10,800 was provided by Moses Obeid to Mr Roozendaal. The

Commission finds further that, at the time Moses Obeid provided the \$10,800 benefit to Mr Roozendaal, he did so on the understanding that this would tend to influence Mr Roozendaal, at some time in the future, to exercise his public official functions in a manner favourable to Moses Obeid or an Obeid business interest.

Moses Obeid made elaborate, complex and unnecessary financial arrangements to put into effect transactions whereby Mr Roozendaal would receive the benefit of a Honda CR-V at significantly less than the market price. He did this to disguise the fact that he or any Obeid business interest was involved in the transactions in question.

The Commission is satisfied that Moses Obeid arranged for the sham transactions detailed earlier in this report to be undertaken to show that the Honda CR-V had been owned by Mrs Re and Mr Goodman prior to Ms Roozendaal, in all likelihood to make the price paid for the car by Mr Roozendaal seem more reasonable.

Moses Obeid’s actions in attempting to disguise the fact that Mr Roozendaal was obtaining a benefit, and that he or any Obeid business interest was involved in the provision of that benefit, indicates that he appreciated that impropriety was involved in his actions in conferring a benefit upon Mr Roozendaal.

What reason did Moses Obeid have for conferring such a benefit upon Mr Roozendaal? He failed to provide any explanation, apart from the false explanation that he paid \$10,800 towards the cost of the car to assist Rocco Triulcio. Mr Roozendaal denied that he and Moses Obeid were friends. There is no reason to believe that the \$10,800 was a gift. There was no personal or business relationship between them that would explain why Moses Obeid wished to provide Mr Roozendaal with a \$10,800 benefit.

Moses Obeid was aware in mid-2007 that Mr Roozendaal, as a minister of the Crown, was in a position to make decisions favourable to him or an Obeid family business interest or at least to exercise his influence as a minister to favour Obeid family interests. An example is Moses Obeid’s approach to Mr Roozendaal about an issue Streetscape Projects was having with the RTA, an agency under Mr Roozendaal’s control at the time. Although there is no evidence that Mr Roozendaal showed favour to Streetscape Projects in response to Moses Obeid’s approach, the Commission is satisfied that this approach by Moses Obeid shows that he knew that Mr Roozendaal was in a position to assist Streetscape Projects. For this reason, Moses Obeid directly approached Mr Roozendaal in the hope that he would intervene with the RTA in support of Streetscape Projects.

The evidence before the Commission in this matter and in Operation Jasper (the second of the three segments that make up this public inquiry) shows that the Obeid



family operates as a single economic unit and has extensive and varied business interests, many of which could benefit, potentially, from a favourable decision made by Mr Roozendaal in the various capacities in which he held office as a minister of the Crown. It was useful for Moses Obeid to be in a position in which he could seek a favour from a minister, or in which the minister owed him a favour. The Commission has taken into account the varied nature and extent of the Obeid business interests in NSW. Moses Obeid would have reasonably anticipated that other matters involving his or other Obeid business interests might arise from time-to-time and that it would be useful to seek Mr Roozendaal's intervention, in his role as a minister, in order to obtain a resolution of those matters favourable to Obeid business interests.

Taking all of these matters into consideration, the Commission finds that Moses Obeid provided a \$10,800 benefit to Mr Roozendaal as an inducement for Mr Roozendaal to show favour to Obeid business interests in the exercise of his official functions, or the receipt of which benefit would tend to influence Mr Roozendaal to show favour to Obeid business interests in the exercise of his public official functions. In the Commission's view, this was Moses Obeid's sole purpose in providing the benefit.

## Corrupt conduct

The Commission's approach to making findings of corrupt conduct is set out in Appendix 2 to this report.

First, the Commission makes findings of relevant facts on the balance of probabilities. The Commission then determines whether those facts come within the terms of s 8(1) or s 8(2) of the ICAC Act. If they do, the Commission then considers s 9 and the jurisdictional requirements of section 13(3A). In the case of s 9(1)(a), the Commission considers whether, if the facts as found were to be proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that the person has committed a particular criminal offence.

### Moses Obeid

The Commission is satisfied that Moses Obeid provided a \$10,800 benefit to Mr Roozendaal as an inducement for Mr Roozendaal to show favour to Obeid business interests in the exercise of his official functions, or the receipt of which would tend to influence Mr Roozendaal to show favour to Obeid business interests in the exercise of his public official functions.

Such conduct is corrupt conduct for the purpose of s 8 of the ICAC Act. It is conduct which, on Moses Obeid's part, constitutes or involves conduct that could adversely affect,

either directly or indirectly, the exercise of Mr Roozendaal's public official functions under s 8(2) of the ICAC Act, and could involve bribery or the offer of secret commissions within s 8(2)(b) and s 8(2)(d) of the ICAC Act.

For the purpose of s 9(1)(a) of the ICAC Act it is relevant to consider s 249B(2) of the Crimes Act. Section 249B(2) provides as follows:

- (2) *If any person corruptly gives or offers to give to any agent, or to any other person with the consent or at the request of any agent, any benefit:*
- (a) *as an inducement or reward for or otherwise on account of the agent's:*
    - (i) *doing or not doing something, or having done or not having done something, or*
    - (ii) *showing or not showing, or having shown or not having shown, favour or disfavour to any person,*
  - in relation to the affairs or business of the agent's principal, or*
  - (b) *the receipt or any expectation of which would in any way tend to influence the agent to show, or not to show, favour or disfavour to any person in relation to the affairs or business of the agent's principal,*

*the firstmentioned person is liable to imprisonment for 7 years.*

The Commission is satisfied for the purposes of s 9(1)(a) of the ICAC Act that, if the facts it has found were to be proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that Moses Obeid has committed an offence under s 249B(2)(b) of the Crimes Act of corruptly giving a benefit to Mr Roozendaal, totalling \$10,800, as an inducement for Mr Roozendaal to show favour to Obeid business interests in the exercise of his official functions or the receipt of which would tend to influence Mr Roozendaal to exercise his public official functions in a manner favourable to the Obeid business interests.

### Eric Roozendaal

The Commission has found that there is insufficient evidence to support a finding that Mr Roozendaal knew about the financial transactions that were undertaken between the Triulcios and the Obeids to obtain the car or the transactions undertaken to interpose Mrs Re and Mr Goodman as prior registered owners of the vehicle.

Mr Roozendaal knew that he was obtaining an almost new car at a substantial discount through Moses Obeid's

contacts and that he was allowed to take the car away from Mr Fitzhenry's premises without having signed any documents or paid any money, because Moses Obeid was a friend of Mr Fitzhenry's and had made such arrangements.

Submissions made by counsel for Mr Roozendaal conceded that his actions in allowing Moses Obeid to arrange for the purchase of the car may have shown a lack of "judgment or insight" on Mr Roozendaal's part. Mr Roozendaal conceded in evidence that it was, in retrospect, odd or unusual that he had been allowed to collect the car without paying anything or signing any documents.

Despite these concerns, as noted previously in this report, the question of what Mr Roozendaal knew or was told about the purchase turns to a large degree on what he was told by Moses Obeid. Moses Obeid was not a truthful witness, and his evidence could not be relied upon for any purpose, including deciding what he may or may not have told Mr Roozendaal.

In the circumstances, the Commission does not find sufficient evidence to establish corrupt conduct on the part of Mr Roozendaal.

The Commission also does not find sufficient evidence to establish corrupt conduct on the part of Edward Obeid Sr, Paul Obeid, Rocco Triulcio and Rosario Triulcio.

## Section 74A(2) statements

In making a public report, the Commission is required by the provisions of s 74A(2) of the ICAC Act to include, in respect of each "affected" person, a statement as to whether or not in all the circumstances, the Commission is of the opinion that consideration should be given to the following:

- a) obtaining the advice of the Director of Public Prosecutions (DPP) with respect to the prosecution of the person for a specified criminal offence
- b) the taking of action against the person for a specified disciplinary offence
- c) the taking of action against the person as a public official on specified grounds, with a view to dismissing, dispensing with the services of or otherwise terminating the services of the public official.

An "affected" person is defined in s 74A(3) of the ICAC Act as a person against whom, in the Commission's opinion, substantial allegations have been made in the course of, or in connection with, an investigation.

For the purposes of this report Moses Obeid, Edward Obeid Sr, Paul Obeid, Rocco Triulcio, Rosario Triulcio and Mr Roozendaal are "affected" persons.

The Commission considers that there is insufficient admissible evidence to support obtaining the advice of the

DPP with respect to the prosecution of Edward Obeid Sr, Paul Obeid, Rocco Triulcio, Rosario Triulcio or Mr Roozendaal in respect of the allegations that they were corruptly involved in the provision of a benefit to Mr Roozendaal.

Moses Obeid's evidence was made under a declaration pursuant to s 38 of the ICAC Act. The effect of the declaration is that his evidence cannot be used in evidence against him in any subsequent criminal prosecution, except for a prosecution for an offence under the ICAC Act.

In the course of the investigation, the Commission obtained other evidence that would be admissible in the prosecution of Moses Obeid, including the evidence of Mr Fitzhenry, Mr Goodman, and Peter Warren Automotive employees, Mr Agostino and Mr Nguyen. The Commission, however, is not of the opinion that consideration should be given to obtaining the advice of the DPP with respect to the prosecution of Moses Obeid for an offence under s 249B(2) of the Crimes Act. This is because the Commission is not persuaded that, on the strength of that evidence, the offence in question would be proved beyond reasonable doubt.

The Commission has found that the evidence given by Moses Obeid, Paul Obeid, Rocco Triulcio and Rosario Triulcio was untrue in several significant respects. In particular, there is documentary evidence in the records of Mr Fitzhenry, the records of Peter Warren Automotive and the Obeids' and Triulcios' own business records which shows that:

- it was not originally intended that the Honda CR-V should be purchased for Mrs Re, rather Ms Roozendaal was the original intended purchaser
- Rocco Triulcio provided a cheque to pay for the Honda CR-V as a loan to the Obeids to facilitate the purchase of the car for Mr Roozendaal or his wife, not because Rocco Triulcio intended to purchase the car for his sister
- Moses Obeid did not arrange to pay \$10,800 towards the cost of the car because Rocco Triulcio had decided not to purchase the car for Mrs Re after a falling out with Mr Fitzhenry
- Moses Obeid did not decide to approach Mr Roozendaal with a proposition that he should take the car only after an arrangement that the car was to be purchased for Mrs Re fell through.

The fact that the Obeids and the Triulcios all told, generally, the same story about the issues outlined above is significant because once one accepts that the evidence given is untrue, as one must taking into account the documentary and other credible evidence outlined in this report, it follows that the only way in which they could tell, generally, the same story about these issues is if they

had collaborated on their evidence to explain the sham transactions that were undertaken to make it seem that the Honda CR-V had first been purchased for Mrs Re.

Their actions in fabricating such a story have substantially prejudiced the Commission's investigation and, in particular, hindered the Commission's ability to uncover the full truth about how Mr Roozendaal came to obtain the car in question.

In these circumstances, the Commission considers that the advice of the DPP should be sought with respect to the prosecution of the persons listed below for offences of providing false or misleading evidence to the Commission under s 87 of the ICAC Act on the following bases:

### Moses Obeid

- Moses Obeid gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he gave evidence that the Honda CR-V obtained by Mr Fitzhenry from Peter Warren Automotive was originally intended for Mrs Re.
- Moses Obeid gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he gave evidence that his first conversation with Mr Roozendaal about purchasing the Honda CR-V was on 18 June 2007 when Rocco Triulcio decided that he did not want to acquire the Honda CR-V for Mrs Re.
- Moses Obeid gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he said that he instructed Mr Fitzhenry to locate two cars – one for Rocco Triulcio and one for Mr Roozendaal.
- Moses Obeid gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he denied that he arranged for Rocco Triulcio to provide a cheque to purchase the Honda CR-V that was intended for the Roozendaals.

### Rocco Triulcio

- Rocco Triulcio gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he said that the Honda CR-V obtained by Mr Fitzhenry from Peter Warren Automotive was originally intended for Mrs Re.
- Rocco Triulcio gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true,

when he said he gave a cheque in the amount of \$44,800 to Mr Fitzhenry to enable Mr Fitzhenry to purchase a Honda CR-V for Mrs Re.

- Rocco Triulcio gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he said that he became upset when Mr Fitzhenry could not obtain a suitable price for his Mercedes vehicle and consequently instructed Mr Fitzhenry to sell the Honda CR-V he had obtained.

### Rosario (Ross) Triulcio

- Rosario Triulcio gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he gave evidence that the Obeid Corporation paid the shortfall of \$10,800 to Challenge Property Investments because Rocco Triulcio decided not to acquire the Honda CR-V for Mrs Re and Challenge Property Investments was, therefore, at risk of losing money.
- Rosario Triulcio gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he gave evidence that he recorded all the entries relating to the Honda CR-V in Challenge Property Investments' books of account against the Obeid Corporation loan account because it was "just an easy way to balance it out" and when he denied that the money paid to Mr Fitzhenry by Rocco Triulcio for the Honda CR-V was a loan to the Obeid family.

### Paul Obeid

- Paul Obeid gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he gave evidence that the Obeid Corporation paid the shortfall of \$10,800 owing on the Honda CR-V because Rocco Triulcio decided not to buy the Honda CR-V and Challenge Property Investments was therefore at risk of losing money.
- Paul Obeid gave evidence that was false or misleading in a material particular knowing it to be false or misleading, or not believing it to be true, when he gave evidence that the \$10,800 payment of 20 June 2007 was recorded in the Obeid Corporation's financial records as a repayment of a loan because the Obeid Corporation was covering a loss suffered by Challenge Property Investments.



## Appendix 1: The role of the Commission

The ICAC Act is concerned with the honest and impartial exercise of official powers and functions in, and in connection with, the public sector of NSW, and the protection of information or material acquired in the course of performing official functions. It provides mechanisms which are designed to expose and prevent the dishonest or partial exercise of such official powers and functions and the misuse of information or material. In furtherance of the objectives of the ICAC Act, the Commission may investigate allegations or complaints of corrupt conduct, or conduct liable to encourage or cause the occurrence of corrupt conduct. It may then report on the investigation and, when appropriate, make recommendations as to any action which the Commission believes should be taken or considered.

The Commission can also investigate the conduct of persons who are not public officials but whose conduct adversely affects or could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority. The Commission may make findings of fact and form opinions based on those facts as to whether any particular person, even though not a public official, has engaged in corrupt conduct.

The ICAC Act applies to public authorities and public officials as defined in s 3 of the ICAC Act.

The Commission was created in response to community and Parliamentary concerns about corruption which had been revealed in, inter alia, various parts of the public service, causing a consequent downturn in community confidence in the integrity of that service. It is recognised that corruption in the public service not only undermines confidence in the bureaucracy but also has a detrimental effect on the confidence of the community in the processes of democratic government, at least at the level of government in which that corruption occurs. It is also recognised that corruption commonly indicates and promotes inefficiency, produces waste and could lead to loss of revenue.

The role of the Commission is to act as an agent for changing the situation which has been revealed. Its work involves identifying and bringing to attention conduct which is corrupt. Having done so, or better still in the course of so doing, the Commission can prompt the relevant public authority to recognise the need for reform or change, and then assist that public authority (and others with similar vulnerabilities) to bring about the necessary changes or reforms in procedures and systems, and, importantly, promote an ethical culture, an ethos of probity.

The principal functions of the Commission, as specified in s 13 of the ICAC Act, include investigating any circumstances which in the Commission's opinion imply that corrupt conduct, or conduct liable to allow or encourage corrupt conduct, or conduct connected with corrupt conduct, may have occurred, and cooperating with public authorities and public officials in reviewing practices and procedures to reduce the likelihood of the occurrence of corrupt conduct.

The Commission may form and express an opinion as to whether consideration should or should not be given to obtaining the advice of the Director of Public Prosecutions with respect to the prosecution of a person for a specified criminal offence. It may also state whether it is of the opinion that consideration should be given to the taking of action against a person for a specified disciplinary offence or the taking of action against a public official on specified grounds with a view to dismissing, dispensing with the services of, or otherwise terminating the services of the public official.

## Appendix 2: Making corrupt conduct findings

Corrupt conduct is defined in s 7 of the ICAC Act as any conduct which falls within the description of corrupt conduct in either or both s 8(1) or s 8(2) and which is not excluded by s 9 of the ICAC Act.

Section 8 defines the general nature of corrupt conduct. Section 8(1) provides that corrupt conduct is:

- a. *any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or*
- b. *any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or*
- c. *any conduct of a public official or former public official that constitutes or involves a breach of public trust, or*
- d. *any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.*

Section 8(2) specifies conduct, including the conduct of any person (whether or not a public official), that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority, and which, in addition, could involve a number of specific offences which are set out in that subsection.

Section 9(1) provides that, despite section 8, conduct does not amount to corrupt conduct unless it could constitute or involve:

- a. *a criminal offence, or*
- b. *a disciplinary offence, or*

- c. *reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official, or*
- d. *in the case of conduct of a Minister of the Crown or a Member of a House of Parliament – a substantial breach of an applicable code of conduct.*

Section 13(3A) of the ICAC Act provides that the Commission may make a finding that a person has engaged or is engaged in corrupt conduct of a kind described in paragraphs (a), (b), (c), or (d) of section 9(1) only if satisfied that a person has engaged or is engaging in conduct that constitutes or involves an offence or thing of the kind described in that paragraph.

Section 9(4) of the ICAC Act provides that, subject to subsection 9(5), the conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in s 8 is not excluded by s 9 from being corrupt if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of Parliament into serious disrepute.

Section 9(5) of the ICAC Act provides that the Commission is not authorised to include in a report a finding or opinion that a specified person has, by engaging in conduct of a kind referred to in s 9(4), engaged in corrupt conduct, unless the Commission is satisfied that the conduct constitutes a breach of a law (apart from the ICAC Act) and the Commission identifies that law in the report.

The Commission adopts the following approach in determining whether corrupt conduct has occurred.

First, the Commission makes findings of relevant facts on the balance of probabilities. The Commission then determines whether those facts come within the terms of s 8(1) or s 8(2) of the ICAC Act. If they do, the Commission then considers s 9 and the jurisdictional

requirements of s 13(3A) and, in the case of a Minister of the Crown or a member of a House of Parliament, the jurisdictional requirements of s 9(5). In the case of s 9(1)(a) and s 9(5) the Commission considers whether, if the facts as found were to be proved on admissible evidence to the criminal standard of beyond reasonable doubt and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that the person has committed a particular criminal offence. In the case of s 9(1)(b), s 9(1)(c) and s 9(1)(d) the Commission considers whether, if the facts as found were to be proved on admissible evidence to the requisite standard of on the balance of probabilities and accepted by an appropriate tribunal, they would be grounds on which such a tribunal would find that the person has engaged in conduct that constitutes or involves a thing of the kind described in those sections.

A finding of corrupt conduct against an individual is a serious matter. It may affect the individual personally, professionally or in employment, as well as in family and social relationships. In addition, there are limited instances where judicial review will be available. These are generally limited to grounds for prerogative relief based upon jurisdictional error, denial of procedural fairness, failing to take into account a relevant consideration or taking into account an irrelevant consideration and acting in breach of the ordinary principles governing the exercise of discretion. This situation highlights the need to exercise care in making findings of corrupt conduct.

In Australia there are only two standards of proof: one relating to criminal matters, the other to civil matters. Commission investigations, including hearings, are not criminal in their nature. Hearings are neither trials nor committals. Rather, the Commission is similar in standing to a Royal Commission and its investigations and hearings have most of the characteristics associated with a Royal Commission. The standard of proof in Royal Commissions is the civil standard, that is, on the balance of probabilities. This requires only reasonable satisfaction as opposed to satisfaction beyond reasonable doubt, as is required in criminal matters. The civil standard is the standard which has been applied consistently in the Commission when making factual findings. However, because of the seriousness of the findings which may be made, it is important to bear in mind what was said by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362:

*...reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or fact to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect*

*the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters 'reasonable satisfaction' should not be produced by inexact proofs, indefinite testimony, or indirect inferences.*

This formulation is, as the High Court pointed out in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 67 ALJR 170 at 171, to be understood:

*...as merely reflecting a conventional perception that members of our society do not ordinarily engage in fraudulent or criminal conduct and a judicial approach that a court should not lightly make a finding that, on the balance of probabilities, a party to civil litigation has been guilty of such conduct.*

See also *Rejcek v McElroy* (1965) 112 CLR 517, the *Report of the Royal Commission of inquiry into matters in relation to electoral redistribution*, Queensland, 1977 (McGregor J) and the *Report of the Royal Commission into An Attempt to Bribe a Member of the House of Assembly, and Other Matters* (Hon W Carter QC, Tasmania, 1991).

Findings of fact and corrupt conduct set out in this report have been made applying the principles detailed in this Appendix.



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INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

Level 21, 133 Castlereagh Street  
Sydney, NSW, Australia 2000

Postal Address: GPO Box 500,  
Sydney, NSW, Australia 2001

T: 02 8281 5999

1800 463 909 (toll free for callers outside metropolitan Sydney)

TTY: 02 8281 5773 (for hearing-impaired callers only)

F: 02 9264 5364

E: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)

[www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

Business Hours: 9 am - 5 pm Monday to Friday